



BOARD OF BEHAVIORAL SCIENCES
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MEETING NOTICE

July 27, 2006

Hilton San Diego Airport/Harbor Island
Skyline/Lindberg Room
1960 Harbor Island Drive
San Diego, CA 92101

Thursday, July 27
9:00 a.m.

FULL BOARD OPEN SESSION - Call to Order & Establishment of a Quorum

I. Chairperson's Report

- A. Discussion of Letter from the California Association of Marriage and Family Therapists
- B. Report on MHSA Education and Training Advisory Committee Meeting

II. Executive Officer's Report

- A. Personnel Update
- B. Report on MHSA Education and Training Workgroups
- C. Enforcement Statistics
- D. Proposed 2007 Board Meeting Dates
- E. Miscellaneous Matters

III. Approval of May 18-19, 2006 Board Meeting Minutes

IV. Report of the Budget and Efficiency Committee

- A. Report and Possible Action on Establishing Delinquency Fees for Continuing Education Providers
- B. Report and Possible Action on Revising Fee Statutes and Regulations
- C. Continuing Education Credit for Attending Board Meetings
- D. Strategic Plan Update
- E. Budget Update
- F. Quarterly Licensing Statistics

V. Report of the Communications Committee

- A. Strategic Plan Update
- B. Supervision Requirements Chart

VI. Report of the Policy and Advocacy Committee

- A. Review and Possible Action on Draft Regulations Related to Supervisor Qualifications [16CCR1833.3 & 16CCR1870].
- B. Review and Possible Action on Regulations Regarding Abandonment of Application Files (16CCR1806 & 1833.3).
- C. Review and Possible Action on Technical Regulation Cleanup Related to LEP and Board Administration Statutory Changes.
- D. Review and Possible Action on Assembly Bill 525 Related to Child Abuse Reporting.
- E. Regulation Update
- F. Legislation Update
- G. Strategic Plan Update

VII. Report of the MFT Education Committee

1:00 p.m. VIII. PUBLIC HEARING ON PROPOSED AMENDMENT TO REGULATIONS

Regulation subject to proposed amendment:

Title 16, Section 1803, California Code of Regulations (16 C.C.R. § 1803).
Delegation of Authority to the Executive Officer of the Board to Order Mental and Physical Health Examinations

CLOSE OF PUBLIC HEARING

- IX. Review and Possible Action on Proposed Amendments to 16CCR1803 Regarding Delegation to the Executive Officer
- X. Election of Officers
- XI. Public Comment for Items Not on the Agenda

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Items will be considered in the order listed. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.

THIS AGENDA AS WELL AS BOARD MEETING MINUTES CAN BE FOUND ON THE BOARD OF BEHAVIORAL SCIENCES WEBSITE AT www.bbs.ca.gov

NOTICE: The meeting facilities are accessible to persons with disabilities. Please make requests for accommodations to the attention of Christina Kitamura at the Board of Behavioral Sciences, 1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834, or by phone at (916) 574-7835, no later than one week prior to the meeting. If you have any questions please contact the Board at (916) 574-7830.

Item A

Personnel Update

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**State of California
Board of Behavioral Sciences**

Memorandum

To: Board Members

Date: July 11, 2006

From: Paul Riches
Executive Officer

Telephone: (916) 574-7840

Subject: Personnel Update

Effective June 26, 2006, Dominique (Nikki) Cotto was promoted to Office Technician, part time intermittent. Ms. Cotto has worked as a student assistant with the board since February 2006. Ms. Cotto will be assisting the Enforcement Unit.

On July 10, 2006, Justin Sotelo joined the board staff as an Associate Governmental Program Analyst. Mr. Sotelo will work in the Administrative Unit assisting with the rulemaking process and is responsible for board facilities and purchases. Mr. Sotelo is returning to state service and previously work at the Architects Board and the Landscape Architects Technical Committee.

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Item B

MHSA Education and Training Workgroups

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Needs Assessment

Special Topic Workgroup
June 13, 2006
MHSA Workforce Education and
Training

1

Why Are We Here?

MHSA requires a statewide needs assessment as part of the implementation of the education and training provisions

- DMH responsible for conducting the needs assessment
- Contracting for a consultant to assist
- Asking for stakeholder participation throughout the process

2

Special Topic Workgroups

- Needs assessment
- Training and technical assistance for current employees and community partners/curriculum fidelity
- Consumer/family member employment in mental health
- Regional partnerships
- Stipends/loan forgiveness/scholarship programs
- Distance learning
- Human service academies/high schools, ROP, adult ed
- Post-secondary education/training
- Licensing and certification

3

Operating Principles

All recommendations for MHSA funding must:

- Incorporate the viewpoints and experiences of mental health consumers and family members
- Include principles and practices of cultural competency
- Include county mental health programs, their contract agencies, community partners, and any entity capable of assisting in the delivery of services according to the intent of the Act.

4

Operating Principles (contd.)

- Be available and relevant to service providers/partners/communities with special needs; such as rural, native american, youth, older adults, immigrant cultures
- Be cost effective
- Enable evaluation of the incorporation of the above operating principles, as well as effectiveness of the use of MHSA funds for education and training

5

Implementation Process

- Workgroup recommends options
- Statewide Advisory Committee integrates nine workgroup recommendations
- Options presented in General Stakeholder process
- DMH/counties determine type/amount of MHSA funding
- California Mental Health Planning Council (CMHPC) reviews, approves recommendations
- DMH/counties implement recommendations
- Oversight and Accountability Commission (OAC)₆ oversees and comments on process

Short- Versus Long-Term Strategies

- Short-term:
 - Linked directly to the implementation of counties' current Community Services and Supports (CSS) Plans – ends June, 2008
 - CSS workforce needs being summarized and analyzed
- Long-term:
 - Linked directly to the statewide comprehensive needs assessment - to be conducted

7

CMHPC Recommendations

- Summarize and analyze counties' submitted Community Services and Supports (CSS) Plans to determine immediate workforce needs
- Hire a consultant to assist in conducting a comprehensive statewide needs assessment

8

Stakeholder Recommendations

- Assess all factors impacting workforce needs, not just vacancies; such as pay, licensing, paperwork requirements, workplace culture toward consumer/family member driven services
- Address not just what education and training is needed, but also how it is delivered
- Link needs assessment with ongoing evaluation of how well MHSA education and training is transforming public mental health

9

What Do We Have So Far?

- Template developed to standardize workforce information extracted from each county CSS plan
- Workforce information extraction partially completed
- Request for Quotation (RFQ) posted on DMH web page to engage services of a consultant
- Consultant response – to start July 1

10

Short-Term Needs Assessment

From counties' CSS Plans (preliminary estimates):

- 4,000 MHSA positions created; approximately 10 % designated for consumers/family members
- 10,000 persons to receive full service partnerships
- Hispanics underrepresented in the workforce
- Shortage of proficiency in threshold languages
- Shortage of licensed professionals; especially in rural communities
- Only a handful of counties included training in one time CSS Plan funding

11

Comprehensive Needs Assessment

What potential projects can be undertaken to complete a comprehensive assessment of the education and training needs of California's public mental health workforce?

12

Potential Projects - 1

Analyze the received data from counties' **CSS Plans**, and provide a statewide summary analysis of workforce needs by occupational classification, and a statewide summary of diversity challenges

13

Potential Projects - 2

Research and summarize **completed studies** of California's public mental health workforce needs to validate historical trends and research applicable human services workforce studies conducted outside California

14

Potential Projects - 3

Develop a workforce projection methodology that incorporates relevant workforce variables; such as, educational capacity to meet workforce needs, legislative and policy changes affecting workforce composition, demographic changes in California's population, and the transformative nature of emphasizing services that promote wellness, recovery and resilience.

15

Potential Projects - 4

Develop and implement a valid long-term **projection** of both the types of **occupational classifications needed**, as well as the **training and methods of training** to honor the stated intent of the Act

16

Potential Projects - 5

Develop and **field a standardized needs assessment survey instrument** to both obtain quantitative data on numbers of mental health workers needed in occupational classifications, and also qualitative input on the training and methods of training that will enable public mental health services to adhere to the intent of the Act

17

Potential Projects - 6

Develop a methodology by which California can **evaluate** over time the **impact** of the application of the MHSA workforce education and training plans and resources

18

Potential Projects - 7

Collect, analyze and summarize survey data by county, region and state, and **provide useable recommendations** that will enable decisions as to appropriate allocation of MHSA education and training resources

19

Parking Lot

What are good strategies/actions, but should be addressed by another workgroup?

20

Next Steps

21

Licensing and Certification

Special Topic Workgroup
July 12, 2006
MHSA Workforce Education and
Training

1

Why Are We Here?

To develop options and recommendations pertaining to policies, regulations and statutes governing the licensure and certification of individuals working in public mental health that may alleviate workforce shortfalls.

2

Special Topic Workgroups

- Needs assessment
- Training and technical assistance for current employees and community partners/curriculum fidelity
- Consumer/family member employment in mental health
- Regional partnerships
- Stipends/loan forgiveness/scholarship programs
- Distance learning
- Human service academies/high schools, ROP, adult ed
- Post-secondary education/training
- Licensing and certification

3

Operating Principles

All recommended options for MHSA funding must:

- Incorporate the viewpoints and experiences of mental health consumers and family members
- Include principles and practices of cultural competency
- Be applicable to county mental health programs, their contract agencies, community partners, and any entity capable of assisting in the delivery of services according to the intent of the Act.

4

Operating Principles (contd.)

- Be available and relevant to service providers/partners/communities with special needs; such as rural, native american, youth, older adults, immigrant cultures
- Be cost effective
- Enable evaluation of the incorporation of the above operating principles, as well as effectiveness of the recommended options

5

Implementation Process

- Workgroup recommends options
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- Options presented in General Stakeholder process
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Short- Versus Long-Term Strategies

- Short-term:
 - Linked directly to the implementation of counties' current Community Services and Supports (CSS) Plans – ends June, 2008
 - CSS workforce needs being summarized and analyzed
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 - Linked directly to the statewide comprehensive needs assessment - to be conducted

7

CMHPC Recommendation

- Improve the ability with which individuals can transfer their license eligibility from another state; i.e., licensing reciprocity
- Review the minimum qualifications required to prescribe psychotropic medications
- Review the minimum requirements to sign treatment plans funded by Medi-Cal

8

Stakeholder Recommendations

- Assist county human resource departments to write job descriptions and minimum qualifications that reflect the intent of the Act
- Change the questions in the written licensing exams to reflect the intent of the Act
- Enable intern supervision across professions to enable an increase of interns in rural areas
- Ensure that clear, accurate information is readily available to foreign educated individuals who are attempting to gain licensure in CA

9

Stakeholder Recommendations (contd.)

- Endorse the Certified Psychiatric Rehabilitation Professional (CPRP) to enable more consumers and family members to become service providers
- Change the California Code of Regulations to enable the CPRP to sign treatment plans for Medi-Cal funding
- Review Medi-Cal codes to capture the revenue for services provided by consumers and family members

10

What Do We Have So Far?

- CPRP
- Consumer Survivors in Mental Health Management Consultants
- ???

11

Short-Term Strategies

What Actions should we undertake this next year to assist counties implement their CSS Plans?

12

Long-Term Strategies

- What Actions should we take to promote changes in licensing and certification?
- What Actions should we take to evaluate whether we are successful?

13

Parking Lot

What are good strategies/actions, but should be addressed by another workgroup?

14

Next Steps

15

Distance Learning

Special Topic Workgroup
June 28, 2006
MHSA Workforce Education and
Training

1

Why Are We Here?

To develop options and recommendations to
increase the capacity to deliver education
and training programs delivered at a
distance from recipients.

2

Special Topic Workgroups

- Needs assessment
- Training and technical assistance for current employees and community partners/curriculum fidelity
- Consumer/family member employment in mental health
- Regional partnerships
- Stipends/loan forgiveness/scholarship programs
- Distance learning
- Human service academies/high schools, ROP, adult ed
- Post-secondary education/training
- Licensing and certification

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Operating Principles

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- Incorporate the viewpoints and experiences of mental health consumers and family members
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- Be applicable to county mental health programs, their contract agencies, community partners, and any entity capable of assisting in the delivery of services according to the intent of the Act.

4

Operating Principles (contd.)

- Be available and relevant to service providers/partners/communities with special needs; such as rural, native american, youth, older adults, immigrant cultures
- Be cost effective
- Enable evaluation of the incorporation of the above operating principles, as well as effectiveness of the recommended options

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Implementation Process

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Short- Versus Long-Term Strategies

- Short-term:
 - Linked directly to the implementation of counties' current Community Services and Supports (CSS) Plans – ends June, 2008
 - CSS workforce needs being summarized and analyzed
- Long-term:
 - Linked directly to the statewide comprehensive needs assessment - to be conducted

7

CMHPC Recommendation

- Distance learning should be a strategy to expand the capacity of post-secondary education, and for training the current workforce
- Associated information technology costs should be funded from the annual 10% Capitol Facilities and Technological Needs funds distributed to counties through FY 07/08 - Sec 5892 (a) (2)

8

Stakeholder Recommendations

- Use the latest advances in internet/intranet technology to ensure easy, up-to-date access to training, education, employment, meetings, scholarship/stipend/loan forgiveness opportunities.
- Resources should be dedicated to geographically challenged areas (rural) to enable access to education and training events and resources
- Ensure coordinated, multi-use of purchased equipment, such as telemedicine

9

What Do We Have So Far?

- CMHPC Human Resources Committee Project
- Network of Care
- ???

10

Short-Term Strategies

What Actions should we undertake this next year to assist counties implement their CSS Plans?

11

Long-Term Strategies

- What Actions should we take to promote Distance Learning on an ongoing basis?
- What Actions should we take to evaluate whether we are successful?

12

Parking Lot

What are good strategies/actions, but should be addressed by another workgroup?

13

Next Steps

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Item C

Enforcement Statistics

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BOARD OF BEHAVIORAL SCIENCES

Overview of Enforcement Activity

Fiscal Years	01/02	02/03	03/04	04/05	05/06 *
<i>Complaints / Cases Opened</i>					
Complaints Received	493	514	560	626	801
Criminal Convictions Received	397	384	383	384	455
Total Complaints Received	890	898	943	1010	1256
Investigations Opened	42	25	11	25	44
Cases Sent to AG	31	41	17	25	55
<i>Filings</i>					
Citations Issued	30	24	19	63	160
Accusations Filed	27	17	22	17	29
Statement of Issues (SOI's) filed	7	4	4	2	1
Temporary Restraining Order	0	0	0	0	0
Interim Suspension Orders	0	0	1	0	1
<i>Withdrawals/Dismissals</i>					
Accusations Withdrawn or Dismissed	3	1	0	1	1
SOI's Withdrawn or Dismissed	1	1	0	0	0
Declined by the AG	0	7	3	1	3
<i>Disciplinary Decision Outcomes</i>					
Revoked	14	4	10	4	7
Revoked, Stayed, Susp & Probation	2	2	1	2	0
Revoked, Stayed, Probation	12	6	5	2	4
Surrender of License	6	7	7	7	9
Suspension	0	0	0	0	0
Susp., Stayed, Susp & Prob	0	0	0	0	0
Susp., Stayed Probation	0	1	0	0	0
Susp & Prob Only	0	0	0	0	0
License Probation Only	1	0	0	0	0
Reprimand / Reproval	0	1	0	0	0
Other Decisions	0	0	0	0	0
Total Decisions	35	21	23	15	20
<i>Decisions (By Violation Type)</i>					
Fraud	1	1	0	1	0
Health & Safety	0	0	0	1	2
Sexual Misconduct	13	5	5	5	5
Competence / Negligence	1	2	9	2	2
Personal Conduct	7	7	3	4	7
Unprofessional Conduct	8	4	4	2	4
Unlicensed Activity	0	0	0	0	0
Other	0	0	0	0	0
Violation of Probation	5	2	2	0	0

*** Fiscal Year Period: 7/1/05 through 06/30/06.**

Note: These statistics are for informational purposes only and should not be used as the sole source to analyze the Board's enforcement program.

**BOARD OF BEHAVIORAL SCIENCES
ENFORCEMENT AGING DATA
2005 - 2006 FISCAL YEAR ⁽¹⁾**

	0-3 mo	4-6 mo	7-9 mo	10-12 mo	1-2 years	2-3 years	Over 3 Years	Total
Pending Complaints ⁽²⁾	213	66	17	15	8	0	0	319
Pending Investigations ⁽³⁾	6	8	8	5	5	0	0	32
Total Pending Complaints (Includes Inv) ⁽⁴⁾	219	74	25	20	13	0	0	351
Pending Cases at the AG - Pre Accusation ⁽⁵⁾	14	12	2	0	1	1	0	30
Pending Cases at the AG - Post Accusation ⁽⁶⁾	10	8	5	1	4	0	2	30
Total Pending Cases at the AG's Office	24	20	7	1	5	1	2	60

(1) Pending as of June 30, 2006.

(2) Pending Complaints are those complaints which are not currently being investigated by the Division of Investigation.

(3) Pending Investigations are those complaints which are being investigated by the Division of Investigation.

(4) Total Pending Complaints includes pending complaints and pending investigations.

(5) Pre Accusation are those pending cases at the AG's office where an accusation or statement of issues has not been filed yet.

(6) Post Accusation are those pending cases at the AG's office where a accusation or statement of issues has been filed.

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

BOARD OF BEHAVIORAL SCIENCES
BREAKDOWN OF ENFORCEMENT COMPLAINT ACTIVITY BY LICENSEE POPULATION
2005 - 2006
FISCAL YEAR ⁽¹⁾

	OPENED	COMPLAINTS CLOSED	PENDING	Licenses In Effect (2)	% of Licenses to Pending Complaints
UNLICENSED	116	106	26	n/a	n/a
APPLICANTS	317	317	36	n/a	n/a
CE PROVIDERS	8	7	2	2219	0.09
DUAL LICENSEES (3)	16	11	5	n/a	n/a
DUAL W/BOP (3)	20	16	6	n/a	n/a
ASW	67	55	27	6497	0.42
LCSW	184	153	59	16300	0.36
IMF	124	109	52	9696	0.54
MFT	394	335	136	27773	0.49
LEP	10	8	2	1722	0.12
TOTAL	1256	1117	351	64207	0.55

Note: (1) Activity is from July 1, 2005 through June 30, 2006. Pending as of June 30, 2006.
(2) Licenses in effect as of June 1, 2006. Does not include cancelled, revoked, or voluntary surrender of licenses.
(3) Dual licensees are those that hold dual licenses with BBSE. Dual w/BOP are licensed with BBSE and the Board of Psychology.

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

BOARD OF BEHAVIORAL SCIENCES
BREAKDOWN OF ENFORCEMENT COMPLAINT CLOSURES BY TYPE
2005 - 2006

	FISCAL YEAR ⁽¹⁾								
	Unactionable (2)	Mediated (3)	Citation (4)	Violation (5)	Inv. (6)	District Attorney (7)	Rfrd Disp. (8)	Other (9)	TOTAL
UNLICENSED	92	0	1	11	0	0	0	2	106
APPLICANTS	2	0	0	293	0	0	3	19	317
CE PROVIDER	5	0	0	0	0	0	0	2	7
DUAL LICENSEES (10)	5	0	6	0	0	0	0	0	11
DUAL W/BOP (10)	5	1	8	0	0	0	2	0	16
ASW	20	0	1	23	1	0	2	8	55
LCSW	79	0	47	7	7	0	8	5	153
IMF	45	0	1	37	7	0	4	15	109
MFT	185	4	92	14	14	0	14	12	335
LEP	4	0	0	2	0	0	0	2	8
TOTAL	442	5	156	387	29	0	33	65	1117

40% Unactionable

60% Actionable

Note:

- (1) Closure activity is from July 1, 2005 through June 30, 2006.
- (2) Unactionable: Complaints which after review are closed no violation, insufficient evidence, no jurisdiction etc.
- (3) Mediated: Complaints which have no violation, but where a resolution was reached between parties.
- (4) Citation: Complaints in which after review, violations have been found and the complaint was closed upon the issuance of a citation.
- (5) Violation: Complaints which after review, violations have been found and were closed upon the issuance of a cease and desist or warning letter.
- (6) Inv.: Complaints which were closed after an investigation was conducted.
- (7) District Attorney: Complaints which, after review, a determination is made that the matter should be referred to the DA's office.
- (8) Rfrd Disp: Complaints which are referred directly to the Attorney General's office for disciplinary action (no investigation was required).
- (9) Other: Complaints closed in any manner which does not fit within one of the other categories.
- (10) Dual licensees are those that hold dual licenses with BBSE. Dual w/BOP are licensed with BBSE and the Board of Psychology.

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

BOARD OF BEHAVIORAL SCIENCES
CATEGORY OF PENDING COMPLAINTS
As of May 31, 2006

AGENCY CATEGORY	CE	UL	AP	DL	DP	AS	LC	IM	MF	LEP	TOTAL
Fraud	0	0	0	0	0	0	1	0	1	0	2
Fraudulent License	0	0	1	0	0	0	1	0	0	0	2
Insurance, Medi-Cal	0	0	0	0	0	0	0	0	0	0	0
Non-Jurisdictional	0	0	0	0	0	0	1	1	2	0	4
Custody	0	0	0	1	2	0	1	0	12	0	16
Fee Disputes	0	0	0	0	0	0	0	0	1	0	1
Exempt from licensure	0	1	0	0	0	1	0	0	2	0	4
Negligence	0	0	0	0	0	0	0	0	0	0	0
Beyond Scope	0	0	0	0	0	0	0	0	0	0	0
Dual Relationship	0	0	0	0	0	0	0	0	0	0	0
Abandonment	0	0	0	0	0	0	1	0	1	0	2
Improper Supervision	0	0	0	0	2	0	3	0	10	0	15
Misdiagnosis	0	0	0	0	0	0	0	0	0	0	0
Failure/Report Abuse	0	0	0	0	0	0	0	0	2	0	2
Aiding & Abetting	0	0	0	0	0	0	0	0	1	0	1
Other	0	0	0	0	0	1	0	0	1	0	2
Mental Illness	0	0	0	0	0	1	1	0	2	0	4
Self Use Drugs/Alcohol	0	0	0	0	0	2	1	1	1	0	5
Conviction of Crime	0	0	2	0	0	16	5	24	13	0	60
Unprofessional Conduct	0	0	0	0	0	3	25	11	52	1	92
Sexual Misconduct	0	0	0	0	0	0	0	3	6	1	10
Breach of Confidentiality	0	0	0	0	0	0	5	2	6	0	13
Emotional/Phys. Harm	0	0	0	1	0	0	1	1	0	0	3
Advertising / Misrepresentation	1	4	0	0	0	1	1	3	2	0	12
Unlicensed Practice	1	20	0	0	0	1	0	3	0	0	25
Repressed Memory	0	0	0	0	0	0	0	0	0	0	0
Third Party Complaint	0	1	0	0	0	1	3	3	2	0	10
Unsafe/Sanitary Conditions	0	0	0	0	0	0	1	0	0	0	1
Discipline by Another State	0	0	1	0	0	0	0	0	0	0	1
Criminal Convictions - Renewal Reported	0	0	0	0	0	0	0	0	0	0	0
Non Compliance with CE Audit	0	0	0	3	2	0	8	0	19	0	32
Applicant Referral for Criminal Conviction	0	0	32	0	0	0	0	0	0	0	32
Subvert Licensing Exam	0	0	0	0	0	0	0	0	0	0	0
TOTAL	2	26	36	5	6	27	59	52	136	2	351

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

BOARD OF BEHAVIORAL SCIENCES
BREAKDOWN OF ENFORCEMENT ACTIVITY - CASES AT THE AG'S OFFICE
BY LICENSEE POPULATION
2005 - 2006 FISCAL YEAR ⁽¹⁾

	PENDING	Licenses In Effect (2)	% of Licenses to Pending Cases
UNLICENSED	0	n/a	n/a
APPLICANTS	4	n/a	n/a
SUSEQUENT DISP. (3)	2	n/a	n/a
DUAL LICENSEES (4)	1	n/a	n/a
DUAL W/BOP (4)	6	n/a	n/a
CE PROVIDERS	0	2219	0.00
ASW	3	6497	0.05
LCSW	12	16300	0.07
IMF	9	9696	0.09
MFT	25	27773	0.09
LEP	0	1722	0.00
TOTAL	62	64207	0.10

Note: (1) Pending as of June 30, 2006.

(2) Licenses in effect as of June 1, 2006. Does not include cancelled, revoked, or voluntary surrender of licenses.

(3) Subsequent Discipline for violation of probation.

(4) Dual licensees are those that hold dual licenses with BBSE. Dual w/BOP are licensed with BBSE and the Board of Psychology.

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

BOARD OF BEHAVIORAL SCIENCES
CATEGORY TYPES OF DISCIPLINARY ACTION TAKEN
2005 - 2006
FISCAL YEAR *

		MFT IMF	LCSW AWS	LEP	APPLICANT
REVOC. STAYED: PROB ONLY					
Aiding and Abetting	1	1			
Sexual Misconduct	1	1			
Discipline by Another State Agency	1	1			
Conviction of a Crime	1				1
Subtotal	4	3	0	0	1
REVOKED					
Improper Supervision	1		1		
Discipline by Another State Agency	1	1			
Conviction of a Crime	3	3			
Sexual Misconduct	2	1	1		
Subtotal	7	5	2	0	0
SURRENDER OF LICENSE					
Unprofessional Conduct	2	1	1		
Mental Illness	2	1	1		
Emotional / Physical Harm	2	1	1		
Sexual Misconduct	2	1	1		
Conviction of a Crime	1	1			
Subtotal	9	5	4	0	0
TOTAL	20	13	6	0	1

* Time frame: July 1, 2005 through June 30, 2006

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

7/11/2006

BOARD OF BEHAVIORAL SCIENCES CITATIONS ISSUED BY CATEGORY

	01/02	02/03	03/04	04/05	05/06*
Agency Category Types					
Improper Supervision		1	1	2	
Aiding & Abetting					1
Failure/Report Abuse		1	1		
Breach of Confidence	1	2	6	5	5
Advertising/Misrepresentation	1	1	1	1	
Unlicensed Practice	3	4	3	7	2
Failure Report Conviction on Renewal		2			
Non Compliance with CE Audit	24	12	6	44	148
Failure Report Conviction on Application		1		1	1
Subvert Licensing Exam			1		
Practicing Beyond Scope				1	
Client Abandonment					1
Unprofessional Conduct				2	2
TOTAL	29	24	19	63	160

	01/02	02/03	03/04	04/05	05/06*
Number Citations Ordered	29	24	19	63	160
Fines Assessed					\$61,650.00
Fines Collected (1)					\$37,150.00

(1) May reflect collection of fines ordered in previous fiscal years.

* 05/06 Fiscal Year through: June 30, 2006

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

7/11/2006

BOARD OF BEHAVIORAL SCIENCES RECOVERY COSTS

	01/02	02/03	03/04	04/05	05/06*
Number Cases Ordered	21	12	9	12	11
Total Amount Ordered	\$130,772.00	\$36,258.50	\$25,497.50	\$73,791.25	\$47,751.25
Stipulation - Revocation (1)					\$1,320.00
Stipulation - Voluntary Surrender (2)					\$36,008.25
Stipulation - Probation					\$1,500.00
Decision - Revocation					\$6,410.50
Decision - Probation					\$2,512.50
Total Amount Collected (3)	\$45,544.76	\$57,867.25	\$20,600.08	\$23,791.89	\$15,168.57
Intercepted by FTB Program					\$314.73
Cost Collected in Payments					\$8,058.34
Cost Collected in Lump Sum					\$6,795.50

(1) Cost recovery only required if the respondent pursues reinstatement (may never be recovered).

(2) Cost recovery only required if the respondent reappears for licensure (may never be recovered).

(3) May reflect collection of cost recovery ordered in previous fiscal years.

* 05/06 Fiscal Year through: June 30, 2006

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

7/11/2006

**BOARD OF BEHAVIORAL SCIENCES
REIMBURSEMENT OF PROBATION PROGRAM**

	01/02	02/03	03/04	04/05	05/06 *
# Cases Ordered			1	3	4
Amount Ordered Per Year (\$1,200)			\$6,000.00	\$16,800.00	\$19,200.00
Amount Collected			0	\$1,900.00	\$3,800.00

* 05/06 Fiscal Year through: June 30, 2006

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

Item D

Proposed Board Meeting Dates

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**State of California
Board of Behavioral Sciences**

Memorandum

To: Board Members
From: Paul Riches
Executive Officer

Date: July 11, 2006

Telephone: (916) 574-7840

Subject: Future Meeting Dates

Below are proposed meeting dates for 2007. These dates follow past practice in scheduling.

February 15-16, 2007 [San Diego]

May 17-18, 2007 [Sacramento]

August 16-17 [Los Angeles]

November 15-16, 2007 [Bay Area]

The next board meeting is scheduled for November 16-17, 2006 in the Bay Area.

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**State of California
Board of Behavioral Sciences**

Memorandum

To: Board Members

Date: July 11, 2006

From: Paul Riches
Executive Officer

Telephone: (916) 574-7840

Subject: Budget and Efficiency Committee Report

Action Items

#A -- Delinquency Fees for Continuing Education Providers

The committee recommends that the board pursue a regulation to establish a delinquency process for continuing education providers.

#B -- Revise Fee Statutes and Regulations.

The committee recommends that the board sponsor legislation and pursue regulations to revise existing statutory and regulatory provisions relating to board fees.

#C -- Grant Continuing Education for Board Meeting Attendance

The committee recommends that staff bring a proposal to the July board meeting for the board's consideration.

Other Committee Items

The Budget and Efficiency Committee met on Wednesday, June 21, 2006 in Sacramento.

- The committee conducted a review of progress on achieving the strategic objectives under Goals 2, 5, and 6. [Item D]
- The committee discussed the potential impact of GASB Rule 45 relating to the accounting of post-employment benefits.
- The committee discussed future fee reductions and redirections to the loan repayment program.
- The committee received an update on the board's budget. [Item E]

For more detailed information on these items see the attached draft minutes from the committee meeting. [Item F]

The next meeting of the committee is scheduled for September 20, 2006.

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Item A

Delinquency Fees for Continuing Education Providers

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**State of California
Board of Behavioral Sciences**

M e m o r a n d u m

To: Board Members

Date: July 10, 2006

From: Christy Berger
Legislation Analyst

Telephone: (916) 574-7856

Subject: Report and Possible Action on Establishing Delinquent Fee for Continuing Education Providers

Background

An applicant for a continuing education provider approval may be issued a certificate which is valid for two years. The provider must renew this approval on or before its expiration date or it will be cancelled. The provider must apply for a new approval if he or she wishes to continue offering continuing education courses to Board licensees.

(B&P Code § 1887.7(c))

The board has received many complaints about the rigid provider approval cancellation regulation, and has received requests that the board allow renewal after the expiration date with a delinquent fee.

Discussion

Establishing a delinquent renewal fee for continuing education provider approvals will eliminate a significant number of the new provider applications received each year. Staff research indicated that nearly one-third of the new provider applications were from providers whose approvals had been cancelled by failing to renew on time.

A survey of the department's health and healing boards revealed that (other than the BBS) only the Board of Registered Nursing (BRN) issues a renewable provider approval. The delinquent fee for BRN providers is \$100, half of the regular renewal fee. If a BRN provider does not renew within two years of his or her expiration date, the approval is cancelled.

At its June 21, 2006 meeting, the Budget and Efficiency Committee was informed that providers have offered courses with expired approvals, often unknowingly due to a change in staff that handled the approval process, or due to a change of address that was not reported to the board. Members of the audience asked that the regulation be clarified to emphasize that no course can be provided with a delinquent approval, and that providers be required to notify attendees who took courses when the approval was expired.

Recommendation

At its June 21, 2006 meeting, the Budget and Efficiency Committee recommended that the Board pursue a regulation to implement a delinquency process for continuing education providers, with additions to clarify that courses may not be offered with a delinquent approval and requiring providers to notify attendees of any course provided with a delinquent or cancelled provider approval be adopted by the board.

Attachment

Proposed Language

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**Board of Behavioral Sciences
Proposed Language**

**Title 16, California Code of Regulations
Sections 1816.7, 1887.7, 1887.75, and 1887.77**

Amend

§1816.7 Delinquent-License Fees

(a) The delinquency fee for the marriage and family therapist license shall be sixty-five dollars (\$65.00) except for the period of time in subsection ~~(d)~~ (e).

(b) The delinquency fee for the licensed clinical social worker license shall be fifty dollars (\$50.00) except for the period of time in subsection ~~(e)~~ (f).

(c) The delinquency fee for the licensed educational psychologist license shall be forty dollars (\$40.00) except for the period of time in subsection ~~(f)~~ (g).

(d) The delinquency fee for the continuing education provider approval shall be one hundred dollars (\$100).

~~(d)~~ (e) For the period of January 1, 2001 through December 31, 2002, the delinquency fee for the marriage and family therapist license shall be twenty-five dollars (\$25.00).

~~(e)~~ (f) For the period of January 1, 2001 through December 31, 2002, the delinquency fee for the licensed clinical social worker license shall be twenty-five dollars (\$25.00).

~~(f)~~ (g) For the period of January 1, 2001 through December 31, 2002, the delinquency fee for the licensed educational psychologist license shall be twenty-five dollars (\$25.00).

Amend

§1887.7 Board Approved Providers

(a) A continuing education provider must meet the board's course content and instructor qualifications criteria, as provided under this article, to qualify to become a board-approved provider.

(b) A continuing education provider shall submit a completed Continuing Education Provider Application (Form no. 37A-633, new 5/97) hereby incorporated by reference, remit the appropriate fees, and obtain a continuing education provider number from the board to become a board-approved provider.

(c) A provider may not apply for a new provider approval number within one year of its an existing approval's expiration unless the provider has undergone a change of ownership.

~~(c)~~ (d) A provider approval issued under this section shall expire on the last day of the twenty-fourth month after the approval issue date. To renew an unexpired provider approval, the provider shall, on or before the expiration date of the approval, pay the two-year renewal fee set forth in Section 1816 of these regulations.

~~A provider approval which is not renewed by the expiration date may not be renewed, restored, reinstated, or reissued thereafter, but the provider may apply for a new approval.~~

(e) When a provider's approval is expired, no course may be presented for continuing education credits for licensees of the Board of Behavioral Sciences.

~~(d)~~ (f) Board-approved provider status is numbers are non-transferable.

Add

§1887.75 Renewal of Expired Approval

A provider approval that has expired may be renewed at any time within one (1) year after its expiration upon all of the following:

(a) Filing an application for renewal on a form prescribed by the board.

(b) Payment of the renewal fee in effect on the last regular renewal date.

(c) Payment of the delinquency fee in effect on the last regular renewal date.

(d) Submission of a letter certifying that no courses were presented while the provider's approval was expired. If a course was presented during that time, the letter shall certify that all participants have been notified that the course was not valid for continuing education credit for licensees of the Board of Behavioral Sciences.

Add

§1887.77 Time Limit for Renewal of Approval After Expiration; New Approval

A provider approval that is not renewed within one year of its expiration date may not be renewed, reinstated, or reissued thereafter, but the provider may apply for and obtain a new approval if:

(a) No fact, circumstance, or condition exists that, if the approval were issued, would justify its revocation.

(b) The applicant pays the fees that would be required if applying for approval for the first time.

Item B

Revisions to Fee Statutes and Regulations

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**State of California
Board of Behavioral Sciences**

M e m o r a n d u m

To: Board Members

Date: July 10, 2006

From: Christy Berger
Legislation Analyst

Telephone: (916) 574-7847

Subject: Report and Possible Action on Revising Fee Statutes and Regulations

Background

A number of legislative and regulatory changes related to fees, including renewals and inactive licensure, are proposed in the attached document. None of the proposed changes are substantive. The purpose of the changes are to either restructure sections or make text revisions in order to:

- Provide clarity
- Improve structure and order
- Provide consistency across the practice acts
- Remove duplicative, outdated, or unnecessary language

The goal is to ensure that the structure and text is consistent and user-friendly for staff, applicants, licensees, and registrants.

Discussion

Fees

In the board's statutes, fees are often specified in sections other than in the actual "Fee Schedule." It is proposed that all fees to be listed in the "Fee Schedule" sections for easy reference, and that the fees be listed in a more logical order, such as intern-related fees first, license-related fees later, and miscellaneous fees last. A statement is proposed to be added to the fee schedule to ensure clarity regarding who is subject to a renewal delinquency fee.

Because certain applications and fees have similar names, staff proposes renaming the "examination application fee" to "examination eligibility fee." This fee accompanies the *Application for State License* which staff plans to rename *Application for Examination Eligibility* to better reflect the purpose of the application. Once an applicant passes the examination(s) he or she must submit an *Application for Initial License Issuance*.

Renewals and Inactive License

The proposed language pertaining to renewals is focused on improving organization, clarification, and consistency throughout the license types. Renewal language is sometimes part of a section that is otherwise not pertinent to renewal. Clarity and structure would be improved by having discrete sections for each type of renewal situation, such as a license that is current, a license that has expired, and a license that has been cancelled, as the requirements for renewal are different in each situation.

The text of the renewal requirements are also proposed to be revised in order to clarify the steps required to renew. For example, when a license is cancelled because it has been allowed to lapse for five or more years, a person must take steps that are similar to a person who is obtaining a license for the first time. All such steps are proposed to be listed, such as submitting

a fee for the issuance of an initial license. This fee is required in order for anybody to obtain a license, but is not specified in this section.

Inactive license requirements have been revised for consistency with the proposed Licensed Educational Psychologist (LEP) language currently in the legislature, which we believe will improve the statute's structure and readability. Additionally, the maximum fee required to renew an inactive license as well as the fee for renewal of a delinquent inactive license is proposed to be added.

Proposed Action

At its June 21, 2006 meeting, the Budget and Efficiency Committee recommended that the Board pursue the proposed statutory and regulatory changes regarding fees, renewals, and inactive licenses.

Attachment

Proposed Language: Fees, Renewals, and Inactive Licenses

**BOARD OF BEHAVIORAL SCIENCES
PROPOSED LANGUAGE
Fees, Renewals, and Inactive Licenses
Business and Professions Code and Title 16, California Code of Regulations**

MFT

Amend §4980.44.

- (a) An unlicensed marriage and family therapist intern employed under this chapter shall:
- (1) Have earned at least a master's degree as specified in Section 4980.40.
 - (2) Be registered with the board prior to the intern performing any duties, except as otherwise provided in subdivision (e) of Section 4980.43.
 - ~~(3) File for renewal of registration annually for a maximum of five years after initial registration with the board.¹ Renewal of registration shall include filing an application for renewal,² paying a renewal fee of seventy-five dollars (\$75),³ and notifying the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the issuance of the initial registration or the registrant's last renewal.⁴~~
 - (3) (4) Inform each client or patient prior to performing any professional services that he or she is unlicensed and under the supervision of a licensed marriage and family therapist, licensed clinical social worker, licensed psychologist, licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology.
 - ~~(4) (5) Continued employment as an unlicensed marriage and family therapist intern shall cease after six years unless the requirements of subdivision (b) are met.⁵ No registration shall be renewed or reinstated beyond the six years from initial issuance the last day of the month during which it was issued regardless of whether it has been revoked.⁶~~
 - (b) When no further renewals are possible, an applicant may apply for and obtain new intern registration status if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration. An applicant who is issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in all allowable work settings except private practice.

Add: §4983.90 INTERN RENEWAL

- (a) The marriage and family therapist intern registration shall expire one year from the last day of the month in which it was issued.⁷
- (b) To renew a registration, the registrant shall, on or before the expiration date of the registration, do all of the following:⁸
- (1) Apply for a renewal on a form prescribed by the board.⁹
 - (2) Pay a renewal fee prescribed by the board.¹⁰
 - (3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the registrant's last renewal.¹¹

¹ Moved to § 4983.90 (c) and revised for clarity

² Moved to § 4983.90 (b)(1).

³ Moved to § 4984.7.

⁴ Moved to § 4983.90 (b)(3).

⁵ Duplicates § 4980.44(a)(2)

⁶ Revised for clarity.

⁷ Added for consistency with LCSW associates, § 4996.18(b). Currently in regulation, Title 16, CCR § 1846.

⁸ Moved from § 4980.44(a)(3) and revised for clarity.

⁹ Moved from § 4980.44(a)(3) and revised for clarity.

¹⁰ Moved from § 4980.44(a)(3) and revised (fees moved to 4984.7).

(c) The registration may be renewed a maximum of five times.¹²

§4984.

(a) Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the board.

(b) To renew an unexpired license, the licensee, on or before the expiration date of the license, shall do all of the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a two-year renewal fee prescribed by the board.

(3) Certify compliance with the continuing education requirements set forth in Section 4980.54.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

Amend §4984.1.

~~A license that has expired may be renewed at any time within five years after its expiration on filing an application for renewal on a form prescribed by the board and payment of the renewal fee in effect on the last regular renewal date. If the license is renewed after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter.~~

A licensee may renew a license at any time within five years after its expiration date by taking all of the actions described in Section 4984(b) and paying any delinquency fees.¹³

Amend §4984.4.

A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or ~~reissued thereafter, but~~ reissued; however, the licensee may apply for and obtain a new license if he or she satisfies all of the following requirements:

(a) No fact, circumstance, or condition exists that, if the license were issued, would ~~justify its~~ constitute grounds for revocation or suspension.

(b) ~~He or she pays the fees that would be required if he or she were applying for a license for the first time. He or she submits an application for examination examination eligibility and the required fees.~~¹⁴

(c) He or she takes and passes the current licensing examinations ~~as specified in subdivision (g) of Section 4980.40.~~¹⁵

(d) He or she submits the fee for initial license issuance.¹⁶

Amend §4984.7.

~~The amount of the fees prescribed by this chapter that relate to licensing of persons to engage in the business of marriage and family therapy is that established by the following schedule:~~¹⁷

¹¹ Moved from § 4980.44(a)(3).

¹² Moved from § 4980.44(a)(3) and revised for clarity.

¹³ Fee moved from § 4984.7(d). Continuing education-authority §4980.54(c)(2)).

¹⁴ Added for clarification and changed to reflect the new application title.

¹⁵ Deleted – not necessary.

¹⁶ Added for clarification.

¹⁷ Moved to (a) and revised for clarity.

~~(a) The fee for applications for examination received on or after January 1, 1987, shall be one hundred dollars (\$100).¹⁸~~

~~(b) The fee for issuance of the initial license shall be a maximum of one hundred eighty dollars (\$180).¹⁹~~

~~(c) For those persons whose licenses expires on or after January 1, 1996, the renewal fee shall be a maximum of one hundred eighty dollars (\$180).²⁰~~

~~(d) The delinquency fee shall be ninety dollars (\$90).²¹ Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees that he or she would have paid if the license had not become delinquent, plus the payment of any and all outstanding delinquency fees.²²~~

~~(e) For those persons registering as interns on or after January 1, 1996, the registration fee shall be seventy-five dollars (\$75).²³~~

~~(f) For those persons whose registration as an intern expires on or after January 1, 1996, the renewal fee shall be seventy-five dollars (\$75).²⁴~~

~~(g) The standard written examination fee shall be one hundred dollars (\$100).²⁵ After successfully passing the standard written examination, each applicant for the clinical vignette examination shall submit one hundred dollars (\$100).²⁶ Applicants failing to appear for any examination, once having been scheduled, shall forfeit any examination fees paid.²⁷ Effective January 1, 2005, the examination fees for the standard written and clinical vignette written examinations shall be based on the actual cost to the board of developing, purchasing, and grading of each examination, plus the actual cost to the board of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.²⁸~~

~~(h) An applicant who fails any standard or clinical vignette written examination may within one year from the notification date of that failure, retake the examination as regularly scheduled without further application upon payment of one hundred dollars (\$100) for the written reexamination and one hundred dollars (\$100) for the clinical vignette written reexamination the required fees.²⁹ Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required. Persons failing to appear for the reexamination, once having been scheduled, shall forfeit any reexamination fees paid.³⁰~~

~~(i) The fee for rescoring any written examination shall be twenty dollars (\$20).³¹~~

~~(j) The fee for issuance of any replacement registration, license, or certificate shall be twenty dollars (\$20).³²~~

~~(k) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).³³~~

~~With regard to all license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.~~

(a) The board shall assess the following fees relating to the licensure of marriage and family therapists:

(1) The application fee for an intern registration shall be seventy-five dollars (\$75).³⁴

¹⁸ Moved to (a)(3), updated and clarified the purpose of the fee.

¹⁹ Moved to (a)(6) and revised for clarity.

²⁰ Moved to (a)(7) and updated.

²¹ Moved to (a)(9), revised to clarify that it pertains to licenses.

²² Moved to § 4984.1.

²³ Moved to (a)(1)

²⁴ Moved to (a)(2) and updated

²⁵ Moved to (a)(4)

²⁶ Moved to (a)(4).

²⁷ Moved to (a)(4)(A).

²⁸ Moved to (a)(4)(B).

²⁹ All fees are specified in the fee schedule.

³⁰ Deleted. Duplicates § 4984.7(a)(4)(A).

³¹ Moved to (a)(5).

³² Moved to (a)(10).

³³ Moved to (a)(11).

³⁴ Moved from (e)

(2) The renewal fee for an intern registration shall be seventy-five dollars (\$75).³⁵

(3) The fee for the application for examination eligibility shall be one hundred dollars (\$100).³⁶

(4) The fee for the standard written examination shall be one hundred dollars (\$100). The fee for the clinical vignette examination shall be one hundred dollars (\$100).³⁷

(A) Applicants failing to appear for an examination, once having been scheduled, shall forfeit the examination fee.³⁸

(B) Examination fees shall be based on the actual cost to the board of developing, purchasing, and grading each examination, plus the actual cost to the board of administering each examination. The examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.³⁹

(5) The fee for rescoring an examination shall be twenty dollars (\$20).⁴⁰

(6) The fee for issuance of an initial license shall be a maximum of one hundred eighty dollars (\$180).⁴¹

(7) The fee for license renewal shall be a maximum of one hundred eighty dollars (\$180).⁴²

(8) The fee for inactive license renewal shall be a maximum of ninety dollars (\$90).⁴³

(9) The renewal delinquency fee shall be a maximum of ninety dollars (\$90). A person who permits his or her license to expire is subject to the delinquency fee.⁴⁴

(10) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).⁴⁵

(11) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).⁴⁶

(b) With regard to all license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

Amend §4984.8.

~~A licensed marriage and family therapist may apply to the board to request that his or her license be placed on inactive status.⁴⁷ A licensee who holds an inactive license shall pay a biennial fee of half of the active renewal fee and shall be exempt from continuing education requirements specified in Section 4980.54,⁴⁸ but shall otherwise be subject to this chapter and shall not engage in the practice of marriage and family therapy in this state.⁴⁹ A licensee on inactive status who has not committed any acts or crimes constituting grounds for denial of licensure may, upon his or her request, have his or her license to practice marriage and family therapy placed on active status.⁵⁰ A licensee requesting his or her license to be placed on active status at any time between a renewal cycle shall pay the remaining half of the renewal fee.⁵¹ A licensee requesting to reactivate from an inactive status whose license will expire less than one year from the date of the request shall be required to complete 18 hours of continuing education for license renewal.⁵² A licensee requesting to reactivate from an~~

³⁵ Moved from § § 4980.44(a)(3) and 4984.7(f)

³⁶ Moved from (a) and changed to reflect the new application title.

³⁷ Moved from (g)

³⁸ Moved from (h)

³⁹ Moved from (g)

⁴⁰ Moved from (i)

⁴¹ Moved from (b)

⁴² Moved from (c)

⁴³ Added to clarify maximum fee in alignment with § 4984.8 (inactive license renewal is half of the active renewal fee)

⁴⁴ Moved from (d)

⁴⁵ Moved from (j)

⁴⁶ Moved from (k)

⁴⁷ Moved to (a)

⁴⁸ Moved to (c)

⁴⁹ Moved to (b)

⁵⁰ Moved to (d)

⁵¹ Moved to (d)(1)

⁵² Moved to (d)(2)

~~inactive status whose license will expire more than one year from the date of the request shall be required to complete 36 hours of continuing education for license renewal.~~⁵³

(a) A licensee may apply to the board to request that his or her license be placed on inactive status.

(b) A licensee on inactive status shall be subject to this chapter and shall not engage in the practice of marriage and family therapy in this state.

(c) A licensee who holds an inactive license shall pay a biennial fee of half of the standard renewal fee and shall be exempt from continuing education requirements.

(d) A licensee on inactive status who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice marriage and family therapy to active status.

(1) A licensee requesting his or her license be placed on active status between renewal cycles shall pay the remaining one-half of his or her renewal fee.

(2) A licensee requesting to restore his or her license to active status, whose license will expire less than one year from the date of the request, shall complete 18 hours of continuing education as specified in Section 4980.54.

(3) A licensee requesting to restore his or her license to active status, whose license will expire more than one year from the date of the request, shall complete 36 hours of continuing education as specified in Section 4980.54.⁵⁴

⁵³ Moved to (d)(3)

⁵⁴ Entire section restructured and revised for clarity.

LCSW

Amend §4996.3.

~~(a) Each application for the standard written examination received on or after January 1, 1999, shall be accompanied by an application fee of one hundred dollars (\$100)⁵⁵ and a fee of up to one hundred fifty dollars (\$150), including the standard written examination fee⁵⁶ and related administrative costs for the standard written examination.⁵⁷ After successfully passing the standard written examination, each applicant shall submit one hundred dollars (\$100) for the clinical vignette written examination.⁵⁸ Applicants failing to appear for any examination, once having been scheduled, shall forfeit any examination fees paid.⁵⁹ Effective January 1, 2005, the examination fees for the standard written and clinical vignette written examinations shall be based on the actual cost to the board of developing, purchasing, and grading of each examination, plus the actual cost to the board of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.~~

~~(b) The fee for rescoring any written examination shall be twenty dollars (\$20).⁶⁰~~

~~(c) The fee for issuance of the initial license shall be a maximum of one hundred fifty-five dollars (\$155).⁶¹~~

~~(d) With regard to all license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.~~

- (a) The board shall assess the following fees relating to the licensure of clinical social workers:
- (1) The application fee for registration as an associate clinical social worker shall be ninety dollars (\$90).⁶²
 - (2) The fee for renewal of an associate clinical social worker registration shall be seventy-five dollars (\$75).⁶³
 - (3) The application fee for extension of an associate clinical social worker registration shall be fifty dollars (\$50).⁶⁴
 - (4) The fee for application for examination eligibility shall be one hundred dollars (\$100).⁶⁵
 - (5) The fee for the standard written examination shall be a maximum of one hundred fifty dollars (\$150). The fee for the clinical vignette examination shall be one hundred dollars (\$100).⁶⁶
 - (A) Applicants failing to appear for any examination, once having been scheduled, shall forfeit any examination fees paid.⁶⁷
 - (B) Examination fees shall be based on the actual cost to the board of developing, purchasing, and grading of each examination, plus the actual cost to the board of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.
 - (6) The fee for rescoring an examination shall be twenty dollars (\$20).⁶⁸
 - (7) The fee for issuance of an initial license shall be a maximum of one hundred fifty-five dollars (\$155).⁶⁹

⁵⁵ Moved to (a)(4), updated and renamed to clarify the purpose of the fee.

⁵⁶ Moved to (a)(5).

⁵⁷ Reflected in (a)(5)(B)

⁵⁸ Moved to (a)(5)

⁵⁹ Moved to (a)(5)(A)

⁶⁰ Moved to (a)(6)

⁶¹ Moved to (a)(7)

⁶² Moved from § 4996.18(a)

⁶³ Moved from § 4996.18(b)

⁶⁴ Moved from § 4996.18(c)

⁶⁵ Moved from § 4996.3(a), language clarified and changed to reflect the new application title.

⁶⁶ Moved from § 4996.3(a) and language clarified

⁶⁷ Moved from § 4996.3(a)

⁶⁸ Moved from § 4996.3(b)

⁶⁹ Moved from § 4996.3(c)

(8) The fee for license renewal shall be a maximum of one hundred fifty-five dollars (\$155).⁷⁰

(9) The fee for inactive license renewal shall be a maximum of seventy-seven dollars and fifty cents (\$77.50).⁷¹

(10) The renewal delinquency fee shall be seventy-five dollars (\$75).⁷² A person who permits his or her license to expire is subject to the delinquency fee.

(11) The fee for issuance of any replacement registration, license, or certificate shall be twenty dollars (\$20).⁷³

(12) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).⁷⁴

(b) With regard to all license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

Amend §4996.4.

~~Notwithstanding Section 4996.3, an applicant who has failed any standard or clinical vignette written examination may apply for reexamination upon payment of the fee of up to one hundred fifty dollars (\$150) including the examination fee and related administrative costs.⁷⁵ An applicant who fails any standard or clinical vignette written examination may within one year from the notification date of failure, retake that examination as regularly scheduled, without further application, upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required. Applicants failing to appear for reexamination, once having been scheduled, shall forfeit any reexamination fees paid.⁷⁶~~

Add: § 4996.52 ASSOCIATE RENEWAL

(a) The associate clinical social worker registration shall expire one year from the last day of the month during which it was issued.⁷⁷

(b) To renew a registration, the registrant shall, on or before the expiration date of the registration, do all of the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the registrant's last renewal.⁷⁸

(c) The registration may be renewed a maximum of five times.⁷⁹

⁷⁰ Moved from § 4996.6(a)

⁷¹ Added in accordance with § 4997 (inactive license renewal fee - half of the active renewal fee).

⁷² Moved from § 4996.6(d)

⁷³ Moved from § 4996.6(g)

⁷⁴ Moved from § 4996.6(h)

⁷⁵ Fee for reexamination same as fee for examination.

⁷⁶ Deleted. Same as § 4996.3(a)(5)(A).

⁷⁷ Moved from § 4996.18(b)

⁷⁸ Moved from § 4996.18(b)

⁷⁹ Moved from § 4996.18(b) and reworded for clarity.

Add: § 4996.54 ASSOCIATE EXTENSION

(a) Notwithstanding Section 4996.52, an associate may apply for, and the board shall grant, one-year extensions beyond the six-year period when no grounds exist for denial, suspension, or revocation of the registration pursuant to Section 480.⁸⁰

(b) An associate shall be eligible to receive a maximum of three one-year extensions.⁸¹

(c) An application for extension shall be made on a form prescribed by the board.⁸²

(d) Each extension shall commence on the date when the last associate renewal or extension expires.⁸³

(e) An associate who practices pursuant to a registration extension shall not practice independently and shall comply with all requirements of this chapter governing experience, including supervision, even if the associate has completed the hours of experience required for licensure.⁸⁴

(f) An associate who is granted an extension may work in all work settings authorized pursuant to this chapter.⁸⁵

Amend §4996.6.

~~(a) The renewal fee for licenses that expire on or after January 1, 1996, shall be a maximum of one hundred fifty-five dollars (\$155)⁸⁶ and shall be collected on a biennial basis by the board in accordance with Section 152.6.⁸⁷ The fees shall be deposited in the State Treasury to the credit of the Behavioral Sciences Fund.⁸⁸~~

~~(a) (b)~~ Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the board.

~~(b) (c)~~ To renew an unexpired license, the licensee shall, on or before the expiration date of the license, do the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a two-year renewal fee prescribed by the board.

(3) Certify compliance with the continuing education requirements set forth in Section 4996.22.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

~~(d) If the license is renewed after its expiration, the licensee shall, as a condition precedent to renewal, also pay a delinquency fee of seventy-five dollars (\$75).⁸⁹~~

~~(e) Any person who permits his or her license to become delinquent may have it restored at any time within five years after its expiration upon the payment of all fees that he or she would have paid if the license had not become delinquent, plus the payment of all delinquency fees.⁹⁰~~

~~(f) A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter; however, the licensee may apply for and obtain a new license if:⁹¹~~

~~(1) No fact, circumstance, or condition exists that, if the license were issued, would justify its revocation or suspension.~~

~~(2) He or she pays the fees that would be required if he or she were applying for a license for the first time.~~

⁸⁰ Moved from § 4996.18(c)

⁸¹ Moved from § 4996.18(c)

⁸² Moved from § 4996.18(c)

⁸³ Moved from § 4996.18(c)

⁸⁴ Moved from § 4996.18(c)

⁸⁵ Moved from § 4996.18(c)

⁸⁶ Moved to § 4996.3(a)(8) and updated.

⁸⁷ Deleted. Duplicates (b)

⁸⁸ Deleted. Duplicates § 4984.5 (proposed §4989.96)

⁸⁹ Delinquency fee moved to § 4996.3(a)(10).

⁹⁰ Moved to § 4996.62

⁹¹ Moved to 4996.64

- ~~(3) He or she takes and passes the current licensing examinations as specified in Section 4996.1.~~⁹²
~~(g) The fee for issuance of any replacement registration, license, or certificate shall be twenty dollars (\$20).~~⁹³
~~(h) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).~~⁹⁴

Add: § 4996.62 RENEWAL OF AN EXPIRED LICENSE

A licensee may renew a license at any time within five years after its expiration date by taking all of the actions described in Section 4996.6(b) and paying any delinquency fees.⁹⁵

Add: § 4996.64 RENEWAL OF A CANCELLED LICENSE

A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued. A licensee may apply for and obtain a new license if he or she satisfies all of the following requirements:

- (a) No fact, circumstance, or condition exists that, if the license were issued, would constitute grounds for revocation or suspension.⁹⁶
(b) He or she submits an application for examination eligibility and the required fees.⁹⁷
(c) He or she takes and passes the current licensing examinations.⁹⁸
(d) He or she submits the fee for initial license issuance.⁹⁹

Amend §4996.18.

(a) Any person who wishes to be credited with experience toward licensure requirements shall register with the board as an associate clinical social worker prior to obtaining that experience. The application shall be made on a form prescribed by the board and ~~shall be accompanied by a fee of ninety dollars (\$90).~~ board.¹⁰⁰

(b) An applicant for registration shall shall:

- (1) ~~possess~~ Possess a master's degree from an accredited school or department of social work, and work.
(2) ~~not~~ Not have committed any crimes or acts constituting grounds for denial of licensure under Section 480.

~~(c) On and after January 1, 1993, an~~ An applicant who possesses a master's degree from a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education shall be eligible, and shall be required, to register as an associate clinical social worker in order to gain experience toward licensure if the applicant has not committed any crimes or acts that constitute grounds for denial of licensure under Section 480. That applicant shall not, however, be eligible for examination until the school or department of social work has received accreditation by the Commission on Accreditation of the Council on Social Work Education.

~~(b) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. A registration may be renewed annually after initial registration by~~

⁹² Moved to § 4996.64

⁹³ Moved to § 4996.3(a)(11)

⁹⁴ Moved to § 4996.3(a)(12)

⁹⁵ Moved from § 4996.6(e) and codifying current practice.

⁹⁶ Moved from § 4996.6(f)(1)

⁹⁷ Moved from 4996.6(f) (...may **apply for** and obtain a new license...) and changed to reflect the new application title.

⁹⁸ Moved from 4996.6(f)(3)

⁹⁹ Clarification.

¹⁰⁰ Moved to § 4996.3(a)(1)

~~filing on or before the date on which the registration expires, an application for renewal,¹⁰¹ paying a renewal fee of seventy-five dollars (\$75),¹⁰² and notifying the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the issuance of the initial registration or registrant's last renewal.¹⁰³ Each person who registers or has registered as an associate clinical social worker, may retain that status for a total of six years.¹⁰⁴ (c) Notwithstanding the limitations on the length of an associate registration in subdivision (b), an associate may apply for, and the board shall grant, one-year extensions beyond the six-year period when no grounds exist for denial, suspension, or revocation of the registration pursuant to Section 480.¹⁰⁵ An associate shall be eligible to receive a maximum of three one-year extensions.¹⁰⁶ An associate who practices pursuant to an extension shall not practice independently and shall comply with all requirements of this chapter governing experience, including supervision, even if the associate has completed the hours of experience required for licensure.¹⁰⁷ Each extension shall commence on the date when the last associate renewal or extension expires.¹⁰⁸ An application for extension shall be made on a form prescribed by the board¹⁰⁹ and shall be accompanied by a renewal fee of fifty dollars (\$50).¹¹⁰ An associate who is granted this extension may work in all work settings authorized pursuant to this chapter.¹¹¹~~

(d) A registrant shall not provide clinical social work services to the public for a fee, monetary or otherwise, except as an employee.

(e) A registrant shall inform each client or patient prior to performing any professional services that he or she is unlicensed and is under the supervision of a licensed professional.

(f) Any experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience.

(g) Any experience obtained under the supervision of a supervisor with whom the applicant has a personal relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(h) ~~(g)~~ An applicant who possesses a master's degree from an approved school or department of social work shall be able to apply experience the applicant obtained during the time the approved school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education toward the licensure requirements, if the experience meets the requirements of Section 4996.20, 4996.21, or 4996.23. This subdivision shall apply retroactively to persons who possess a master's degree from an approved school or department of social work and who obtained experience during the time the approved school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education.

Amend §4997.

~~A licensed clinical social worker may apply to the board to request that his or her license be placed on inactive status.¹¹² A licensee who holds an inactive license shall pay a biennial fee of half of the active renewal fee and shall be exempt from continuing education requirements specified in Section~~

¹⁰¹ Moved to § 4996.52

¹⁰² Requirement moved to § 4996.52, Fee amount moved to § 4996.3(a)(2)

¹⁰³ Moved to § 4996.52

¹⁰⁴ Moved to § 4996.52

¹⁰⁵ Moved to § 4996.54

¹⁰⁶ Moved to § 4996.54

¹⁰⁷ Moved to § 4996.54

¹⁰⁸ Moved to § 4996.54

¹⁰⁹ Moved to § 4996.54

¹¹⁰ Moved to § 4996.3(a)(3)

¹¹¹ Moved to § 4996.52

¹¹² Moved to (a)

~~4996.22,¹¹³ but shall otherwise be subject to this chapter and shall not engage in the practice of licensed clinical social work in this state.¹¹⁴ A licensee on inactive status who has not committed any acts or crimes constituting grounds for denial of licensure may, upon his or her request, have his or her license to practice licensed clinical social work placed on active status.¹¹⁵ A licensee requesting his or her license to be placed on active status between renewal cycles shall pay the remaining half of the renewal fee.¹¹⁶ A licensee requesting to reactivate from an inactive status whose license will expire less than one year from the date of the request shall be required to complete 18 hours of continuing education for license renewal.¹¹⁷ A licensee requesting to reactivate from an inactive status whose license will expire more than one year from the date of the request shall be required to complete 36 hours of continuing education for license renewal.¹¹⁸~~

(a) A licensee may apply to the board to request that his or her license be placed on inactive status.

(b) A licensee on inactive status shall be subject to this chapter and shall not engage in the practice of clinical social work in this state.

(c) A licensee who holds an inactive license shall pay a biennial fee of half of the standard renewal fee and shall be exempt from continuing education requirements.

(d) A licensee on inactive status who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice clinical social work to active status.

(1) A licensee requesting his or her license be placed on active status between renewal cycles shall pay the remaining one-half of his or her renewal fee.

(2) A licensee requesting to restore his or her license to active status, whose license will expire less than one year from the date of the request, shall complete 18 hours of continuing education as specified in Section 4996.22.

(3) A licensee requesting to restore his or her license to active status, whose license will expire more than one year from the date of the request, shall complete 36 hours of continuing education as specified in Section 4996.22.

¹¹³ Moved to(c)

¹¹⁴ Moved to (b)

¹¹⁵ Moved to (d)

¹¹⁶ Moved to (d)(1)

¹¹⁷ Moved to (d)(2)

¹¹⁸ Moved to (d)(3)

REGULATIONS

General Provisions

Amend §1816.

- ~~(a) The biennial renewal fee for a marriage and family therapist is one hundred fifty dollars (\$150.00). For those persons whose license expires on or after July 1, 1998, the biennial renewal fee shall be one hundred thirty dollars (\$130.00) except for the period of time in subsection (h).¹¹⁹~~
- ~~(b) The biennial renewal fee for a licensed clinical social worker is one hundred fifty dollars (\$150.00). For those persons whose license expires on or after July 1, 1998, the biennial renewal fee shall be one hundred dollars (\$100.00) except for the period of time in subsection (i).¹²⁰~~
- ~~(c) The biennial renewal fee for a licensed educational psychologist is eighty dollars (\$80.00) for each person whose license expires on or after July 1, 1998 except for the period of time in subsection (j).¹²¹~~
- ~~(d) The biennial renewal fee for a board-approved continuing education provider is two hundred dollars (\$200.00).¹²²~~
- ~~(e) The annual renewal fee for intern registration is seventy-five dollars (\$75.00).¹²³~~
- ~~(f) The annual renewal fee for associate clinical social worker registration is seventy-five dollars (\$75.00).¹²⁴~~
- ~~(g) The fee for associate clinical social worker extension is fifty dollars (\$50.00).¹²⁵~~
- ~~(h) For the period of January 1, 2001 through December 31, 2002, the biennial renewal fee for a marriage and family therapist is twenty-five dollars (\$25.00).¹²⁶~~
- ~~(i) For the period of January 1, 2001 through December 31, 2002, The biennial renewal fee for a licensed clinical social worker is twenty-five dollars (\$25.00).¹²⁷~~
- ~~(j) For the period of January 1, 2001 through December 31, 2002, The biennial renewal fee for a licensed educational psychologist is twenty-five dollars (\$25.00).¹²⁸~~

- (a) The annual renewal fee for marriage and family therapist intern registration is seventy-five dollars (\$75.00).
- (b) The annual renewal fee for associate clinical social worker registration is seventy-five dollars (\$75.00).
- (c) The fee for associate clinical social worker extension is fifty dollars (\$50.00).
- (d) The biennial active renewal fee for a marriage and family therapist is one hundred thirty dollars (\$130.00).
- (e) The biennial active renewal fee for a licensed educational psychologist is eighty dollars (\$80.00).
- (f) The biennial active renewal fee for a licensed clinical social worker is one hundred dollars (\$100.00).
- (g) The biennial renewal fee for a board-approved continuing education provider is two hundred dollars (\$200.00).
- (h) For the period of January 1, 2001 through December 31, 2002, the biennial renewal fee for a marriage and family therapist is twenty-five dollars (\$25.00).
- (i) For the period of January 1, 2001 through December 31, 2002, The biennial renewal fee for a licensed educational psychologist is twenty-five dollars (\$25.00).
- (j) For the period of January 1, 2001 through December 31, 2002, The biennial renewal fee for a licensed clinical social worker is twenty-five dollars (\$25.00).

¹¹⁹ Outdated.

¹²⁰ Moved to (f) and updated.

¹²¹ Moved to (e) and updated.

¹²² Moved to (g)

¹²³ Remains in (a)

¹²⁴ Remains in (b)

¹²⁵ Remains in (c)

¹²⁶ Remains in (h)

¹²⁷ Moved to (j)

¹²⁸ Moved to (i)

Amend §1816.1.

- ~~(a) On or after July 1, 1998, the fee for issuance of the initial marriage and family therapist license shall be one hundred thirty dollars (\$130.00).~~¹²⁹
- ~~(b) On or after July 1, 1998, the fee for issuance of the initial clinical social worker license shall be one hundred dollars (\$100.00).~~¹³⁰
- ~~(c) On or after July 1, 1998, the fee for issuance of the initial educational psychologist license shall be eighty dollars (\$80.00).~~¹³¹
- ~~(d) The fee for issuance of the initial intern registration shall be seventy-five dollars (\$75.00).~~¹³²
- ~~(e) The fee for issuance of the initial associate clinical social worker registration shall be seventy-five dollars (\$75.00).~~¹³³

- (a) The fee for initial issuance of the marriage and family therapist license shall be one hundred thirty dollars (\$130.00).
- (b) The fee for initial issuance of the licensed educational psychologist license shall be eighty dollars (\$80.00).
- (c) The fee for initial issuance of the licensed clinical social worker license shall be one hundred dollars (\$100.00).

Amend §1816.2. WRITTEN EXAMINATION AND RE-EXAMINATION FEES

- ~~(a) The examination and re-examination fee for the licensed clinical social worker standard written examination of the licensed clinical social worker fee shall be one hundred dollars (\$100.00).~~
- ~~(b) The examination and re-examination fee for the licensed clinical social worker written clinical vignette examination of the licensed clinical social worker fee shall be one hundred dollars (\$100).~~
- ~~(c) The examination and re-examination fee for the marriage and family therapist standard written examination fee of the marriage and family therapist shall be one hundred dollars (\$100.00).~~
- ~~(d) The examination and re-examination fee for the marriage and family therapist written clinical vignette examination of the marriage and family therapist fee shall be one hundred dollars (\$100.00).~~
- ~~(e) The examination and re-examination fee for the licensed educational psychologist written examination of the licensed educational psychologist fee shall be one hundred dollars (\$100.00).~~¹³⁴

Amend §1816.4.

- ~~(a) The examination application fee for the marriage and family therapist examination eligibility application shall be one hundred dollars (\$100.00).~~
- ~~(b) The examination application fee for the licensed clinical social worker examination eligibility application shall be one hundred dollars (\$100.00).~~
- ~~(c) The examination application fee for the licensed educational psychologist examination eligibility application shall be one hundred dollars (\$100.00).~~¹³⁵

¹²⁹ Moved to (c) and updated.

¹³⁰ Moved to (e) and updated.

¹³¹ Moved to (d) and updated.

¹³² The board does not charge such a fee.

¹³³ The board does not charge such a fee.

¹³⁴ Re-examination fee is the same as the examination fee – not necessary.

¹³⁵ Changed to better reflect the purpose of the fee and proposed application title.

Amend §1816.6.

- (a) The fee for issuance or renewal¹³⁶ of ~~the~~ an inactive marriage and family therapist license shall be sixty-five dollars (\$65.00) ~~except for the period of time in subsection (d).~~¹³⁷
- (b) The fee for issuance or renewal¹³⁸ of ~~the~~ an inactive licensed clinical social worker license shall be fifty dollars (\$50.00) ~~except for the period of time in subsection (e).~~¹³⁹
- (c) The fee for issuance or renewal¹⁴⁰ of ~~the~~ an inactive licensed educational psychologist license shall be forty dollars (\$40.00) ~~except for the period of time in subsection (f).~~¹⁴¹
- ~~(d) For the period of January 1, 2001 through December 31, 2002, the fee for issuance of the inactive marriage, family, and child counselor license shall be twelve dollars and fifty cents (\$12.50).~~
- ~~(e) For the period of January 1, 2001 through December 31, 2002, the fee for issuance of the inactive licensed clinical social worker license shall be twelve dollars and fifty cents (\$12.50).~~
- ~~(f) For the period of January 1, 2001 through December 31, 2002, the fee for issuance of the inactive licensed educational psychologist license shall be twelve dollars and fifty cents (\$12.50).~~¹⁴²

(d) The fee for renewal of a delinquent inactive marriage and family therapist license is sixty-five dollars (\$65.00).

(e) The fee for renewal of a delinquent inactive licensed clinical social worker license is fifty dollars (\$50.00).

(f) The fee for renewal of a delinquent inactive licensed educational psychologist license is forty dollars (\$40.00).¹⁴³

MFT

Delete: §1846. MARRIAGE, FAMILY AND CHILD COUNSELOR INTERNS

~~The registration of each intern shall expire at midnight one year from the last day of the month in which the registration was issued.~~¹⁴⁴

¹³⁶ § 4984.8 states inactive licensees pay a biennial fee of half the active renewal fee.

¹³⁷ Outdated.

¹³⁸ § 4997 states inactive licensees pay a biennial fee of half the active renewal fee.

¹³⁹ Outdated.

¹⁴⁰ § 4986.82 states inactive licensees pay a biennial fee of half the active renewal fee.

¹⁴¹ Outdated.

¹⁴² Outdated.

¹⁴³ § 1816.7 specifies delinquent license fees in general. Specified here in order to restructure and clarify.

¹⁴⁴ Deleted, not necessary.

Item C

Continuing Education Credit for Attending Board Meetings

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**State of California
Board of Behavioral Sciences**

M e m o r a n d u m

To: Board Members

Date: July 12, 2006

From: Christy Berger
Legislation Analyst

Telephone: (916) 574-7847

Subject: Continuing Education Credit for Attending Board Meetings

Background

Marriage and Family Therapists and Licensed Clinical Social Workers are required to complete 36 hours of continuing education in each 2-year renewal cycle. Pending legislation will also require most Licensed Educational Psychologists to complete continuing education as well. At a meeting in 2005 it was suggested that the board offer continuing education (CE) credits for attending board meetings, but the board did not proceed with any action. This possibility was further discussed at a recent meeting of the Budget and Efficiency Committee. Staff performed some research and after discussions with counsel found that providing continuing education credit would require a regulatory change. However, at the June 21, 2006 meeting of the Committee, a stakeholder suggested the board would need to pursue legislation in order to provide the board with this authority, which counsel has confirmed would be appropriate.

Discussion

Staff recommends allowing board licensees to receive 6 hours of CE credit for attending a full day board meeting. Licensees would be allowed to receive credit for attending one board meeting in each 2-year renewal cycle. In order to receive the CE credit from the board, the licensee would be required to sign in and sign out to verify attendance. Board staff would mail out certificates of completion within 30 days of the board meeting. Board members would not be eligible to receive CE credits for attending board meetings.

This policy is expected to increase attendance at board meetings.

Recommendation

At its June 21, 2006 meeting, the Budget and Efficiency Committee recommended that staff bring a proposal to the July board meeting for consideration.

Attachment

Proposed Language

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**BOARD OF BEHAVIORAL SCIENCES
PROPOSED LANGUAGE**

Amend Business and Professions Code Sections 4980.54, proposed 4989.34, and 4996.22

§4980.54. CONTINUING EDUCATION (MFTs)

(a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to assure that an applicant is prepared and qualified to take the licensure examinations as specified in subdivision (g) of Section 4980.40 and, if he or she passes those examinations, to begin practice.

(b) In order to continuously improve the competence of licensed marriage and family therapists and as a model for all psychotherapeutic professions, the Legislature encourages all licensees to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.

(c) (1) Except as provided in subdivision (e), ~~on and after January 1, 2000~~, the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of marriage and family therapy in the preceding two years, as determined by the board.

~~(2) For those persons renewing during 1999, the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 18 hours of approved continuing education in or relevant to the field of marriage and family therapy, as determined by the board. The coursework of continuing education described in this paragraph may be taken on or after the effective date of the continuing education regulations adopted by the board pursuant to the other provisions of this section.¹~~

(d) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(e) The board may establish exceptions from the continuing education requirements of this section for good cause, as defined by the board.

(f) The continuing education shall be obtained from one of the following sources:

(1) An accredited school or state-approved school that meets the requirements set forth in Section 4980.40. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, including, but not limited to, a professional marriage and family therapist association, a licensed health facility, a governmental

¹ Outdated

entity, a continuing education unit of an accredited four-year institution of higher learning, or a mental health professional association, approved by the board.

~~(3)~~ (g) The board shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education, as described in paragraphs (f)(1) and (f)(2), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

~~(g)~~ (h) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of marriage and family therapy.

(2) Aspects of the discipline of marriage and family therapy in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of marriage and family therapy.

~~(h)~~ (i) A system of continuing education for licensed marriage and family therapists shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

~~(i)~~ (j) ~~On and after January 1, 1997, the~~ The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (f) shall be deemed to be an approved provider.

(k) The Board of Behavioral Sciences may offer a maximum of six (6) continuing education hours once every two-year renewal cycle to marriage and family therapists who attend a regularly noticed meeting of the board.

~~(j)~~ (l) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

§4989.34 (as proposed for LEPs in SB 1475)

(a) To renew his or her license, a licensee shall certify to the board, on a form it prescribes, completion during the preceding two years of not less than 60 hours of approved continuing education in, or relevant to, educational psychology.

(b) Notwithstanding subdivision (a), a licensee who possesses a current Pupil Personnel Services Credential issued on or after July 1, 1994, shall be exempt from the continuing education requirement.

(c) (1) The continuing education shall be obtained from either an accredited university or a continuing education provider approved by the board.

(2) The board shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(d) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of educational psychology.

(2) Aspects of the discipline of educational psychology in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of educational psychology.

(e) The board may audit the records of a licensee to verify the completion of the continuing education requirement. A licensee shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon its request.

(f) The board may establish exceptions from the continuing education requirements of this section for good cause, as determined by the board.

(g) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The amount of the fees shall be sufficient to meet, but shall not exceed, the costs of administering this section.

(h) The Board of Behavioral Sciences may offer a maximum of six (6) continuing education hours once every two-year renewal cycle to licensed educational psychologists who attend a regularly noticed meeting of the board.

~~(h)~~ (i) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

§4996.22. CONTINUING EDUCATION ~~EFFECTIVE JANUARY 1, 2004~~ (LCSWs)

(a) (1) Except as provided in subdivision (c), ~~on and after January 1, 2000~~, the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of social work in the preceding two years, as determined by the board.

~~(2) For those persons renewing during 1999, the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 18 hours of approved continuing education in or relevant to the field of social work, as determined by the board. The coursework of continuing education described in this paragraph may be~~

~~taken on or after the effective date of the continuing education regulations adopted by the board pursuant to the other provisions of this section.~~²

~~(3)~~ (2) The board shall not renew any license of an applicant who began graduate study prior to January 1, 2004, pursuant to this chapter unless the applicant certifies to the board that during the applicant's first renewal period after the operative date of this section, he or she completed a continuing education course in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. On and after January 1, 2005, the course shall consist of not less than seven hours of training. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement. Continuing education courses taken pursuant to this paragraph shall be applied to the 36 hours of approved continuing education required under paragraph (1).

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The board may establish exceptions from the continuing education requirement of this section for good cause as defined by the board.

(d) The continuing education shall be obtained from one of the following sources:

(1) An accredited school of social work, as defined in Section 4990.4, or a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, including, but not limited to, a professional social work association, a licensed health facility, a governmental entity, a continuing education unit of an accredited four-year institution of higher learning, and a mental health professional association, approved by the board.

~~(3)~~ (e) The board shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education, as described in paragraphs (d)(1) and (d)(2), shall adhere to the procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

~~(e)~~ (f) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding, or the practice, of social work.

² Outdated

(2) Aspects of the social work discipline in which significant recent developments have occurred.

(3) Aspects of other related disciplines that enhance the understanding, or the practice, of social work.

~~(f)~~ (g) A system of continuing education for licensed clinical social workers shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

~~(g)~~ (h) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

~~(h)~~ (i) The board may adopt regulations as necessary to implement this section.

(j) The Board of Behavioral Sciences may offer a maximum of six (6) continuing education hours once every two-year renewal cycle to licensed clinical social workers who attend a regularly noticed meeting of the board.

~~(i)~~ (k) ~~On and after January 1, 1997, the~~ The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Science Examiners Fund. The fees related to the administration of this section shall be sufficient to meet but shall not exceed the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d), shall be deemed to be an approved provider.

~~(j) This section shall become operative on January 1, 2004.~~

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Item D

Strategic Plan Update

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State of California

Memorandum

To: Board Members

Date: July 11, 2006

From: Paul Riches

Telephone: (916) 574-7840

Subject: Strategic Plan Update

Background

The board formally adopted the new strategic plan at its November 2005 meeting. As part of the implementation of the strategic plan, each committee will receive a progress update on the strategic objectives under its jurisdiction. This regular exchange of information provided will provide mutual accountability between staff and board members in accomplishing our shared objectives.

Goal 2: Build an excellent organization through effective leadership and professional staff.

Objective 2.1 -- Meet 80% of training goals identified in IDPs by June 30, 2006.

Methodology

Staff reviewed Individual Development Plans completed in the 2005/2006 fiscal year and found that the plans indicated 23 separate training courses be completed.

Target

Staff would need to complete 18 courses to satisfy the objective.

Current Performance

The backlog of Individual Development Plans (IDPs) has been eliminated, and the board is now current. Of those IDPs given in the current fiscal year, 8 staff members identified 23 classes they desired to attend. To date 21 classes have been completed. This is an 88% completion rate.

This objective has been satisfied for the current quarter. Staff will return with recommendations regarding either the revision or elimination of this objective at a future committee meeting.

Objective 2.2 -- Reduce average application processing time by 33% by December 30, 2006.

Applicants place a priority on the timely resolution of their application, and this objective was established to improve the board's responsiveness to its applicants.

Methodology

Application processing time is defined as follows:

of days from receipt of application - # of days elapsed awaiting resolution of deficiencies

Results for Baseline Period

Baseline processing time was established in the period from April – June 2005 as 23.4 days.

In the January – March 2006 quarter, the average processing time across all programs was 13.4 days. The April 2006 – June 2006 quarter the average processing times across all programs was 8.2 days. This improvement occurred with one position vacant for over a month and 23% increase in application volume. A significant portion of the improvement is a consequence of shortening the average time to cashier the application by two days. However, even considering that improvement, the licensing unit has reduced average processing times by three days in the quarter. In fact, the improvement has been significant enough to reduce the total processing time (counting the time needed to resolve deficiencies) from 53.9 days in the baseline period to 34.8 days in the latest quarter (a 35% improvement).

Target Processing Times

An average processing time of 15.7 days would satisfy this strategic objective. This is a 39% decrease in processing times from the prior quarter and a 65% reduction from the baseline period. For the first time all of our licensing programs are reviewing applications within two weeks of receipt.

Future Focus

This has been satisfied for this quarter and staff anticipates not only maintaining this performance but that additional improvement in application processing times is possible. Staff is evaluating further processing time reductions as an objective.

Additionally, the licensing statistics clearly indicate the significant delays caused by deficient applications. Staff conducted a short study to identify the most common deficiencies as the first step in developing strategies to address problem areas in the applications.

Objective 2.3 -- Increase staff training hours by 15% by June 30, 2010.

Methodology

Staff reviewed training records for the prior two fiscal years to establish an average number of training hours to utilize as a baseline.

In the fiscal year 2003/2004, staff completed 150 hours of formal training.
In the fiscal year 2004/2005, staff completed 813 hours of formal training.
This data yields an average of 481 hours of staff training over the two year period.
Given the significant divergence between those two numbers, staff will use the 2004/2005 fiscal year as the baseline for this objective.

Target

Staff would need to complete 934 hours per year to satisfy the objective.

Current Performance

In the fiscal year 2004/2005, 813 hours were devoted to staff training. This number includes a mandatory training class, which all staff attended and accounts for 168 hours. To date, 992 hours staff training has been completed. A 22% increase over the previous year.

The standard training plan has been implemented for all new staff. Currently, 2 staff members are going through this standardized training. For existing staff, standard training specific to the employee civil service classification has been identified and shared with staff.

Objective 2.4 -- Joint participation by executive staff and board members in 20 external events (non-board meeting) by June 30, 2010.

This objective was included to develop closer working relationships between board members and board staff outside the context of formal board and committee meetings. The following list includes both past and currently scheduled events.

1. *October 2005* MSW educators meeting at USC [Peter Manoleas, Paul Riches]
2. *January 2006* MSW student meeting at UC Berkeley [Peter Manoleas, Paul Riches, Janene Mayberry]
3. *March 2006* National Association of School Psychologists meeting in Anaheim [Judy Johnson, Paul Riches]
4. *April 2006* MFT Student outreach meeting at Pepperdine University [Karen Pines, Sean O'Connor]
5. *May 2006* CAMFT annual meeting in Palm Springs [Joan Walmsley, Mona Maggio, Paul Riches]
6. *June 2006* MFT students and educators meeting at Phillips Graduate Institute [Ian Russ, Victor Law, Paul Riches, Kari Frank, Mona Maggio]
7. *July 2006* MFT educators meeting with the Orange County Counseling Consortium [Judy Johnson, Joan Walmsley, Paul Riches]

Goal 5: Utilize technology to improve and expand services.

Objective 5.1 -- Provide the ability to accept electronic payments by June 30, 2008.

Objective 5.2 -- Process 70% of all renewal applications on-line by June 30, 2009.

Objective 5.3 -- Process 33% of all new applications on-line by June 30, 2010

Objective 5.4 -- Provide the ability to check the status of all applications online by June 30, 2010.

These four goals are linked to the implementation of the iLicensing system being developed by the Department of Consumer Affairs. The 2006-07 Budget Act included \$10.7 million in the 2for the Department to implement the system. All of the boards and bureaus within the Department will share the expense of the system. It is expected that the system will provide a platform to meet these goals. The BBS budget was increased by \$35,000 in the 2006-07 fiscal year to reflect its share of the first year expense. Additional expenditures in future budget years are expected as the project is implemented. The budget action included total department-wide budget reductions of \$500,000 per year ongoing beginning in the 2009-10 fiscal year to reflect efficiencies from the system.

Goal 6: Maximize the efficiency and effectiveness of the Board's resources.

The productivity targets in each of these objectives were established by projecting future workload based on an evaluation of the trends established in the past five years. These

productivity increases are required if the new workload is to be absorbed without either an increase in staffing or reduction in service levels.

Objective 6.1 -- Increase licensing staff productivity 13% by June 30, 2010

With the close of the January – March 2006 quarter, we now have one full year of data available as a baseline measure of productivity. It is important to measure licensing productivity on an annual basis because of the substantial seasonality to the workload.

Methodology

Productivity is defined as the total number of completed applications divided by the total time. The licensing unit has 4.5 personnel years allocated to evaluate applications for registration and licensure. There are 246 working days in a personnel year (52 weeks x 5 days – 14 paid state holidays). That allows 1107 total working days for our license evaluators. Based on an 8 hour workday, our license evaluators have 8856 hours per year available to process applications. This figure does not account for vacancies, training time, sick leave, or vacation so the resulting number is expected to understate the actual productivity, but including these confounding variables would make valid year to year comparisons unworkable.

Results for Baseline Period

In the period of April 1, 2005 to March 31, 2006 the license evaluators completed 6377 applications. Based on that performance the license evaluators completed 0.7 applications per work hour.

Productivity Target

To meet the 13% productivity increase target the license evaluators will have to complete .81 applications per work hour.

Objective 6.2 -- Increase enforcement staff productivity in processing consumer complaints 29% by June 30, 2010.

Staff is developing a method to calculate enforcement productivity and expects to have a baseline productivity level available at the next committee meeting.

Objective 6.3 -- Increase examination staff productivity 15% by June 30, 2010.

Methodology

Productivity is defined as the total number of examinations administered divided by the total time. The exam unit has 2.8 personnel years allocated to evaluate applications for registration and licensure. There are 246 working days in a personnel year (52 weeks x 5 days – 14 paid state holidays). Based on 8 hour workdays that allows 5510 total working hours in the exam unit. This figure does not account for vacancies, training time, sick leave, or vacation so the resulting number is expected to understate the actual productivity. However, including these confounding variables would make valid year to year comparisons unworkable.

Results for Baseline Period

The 2004-2005 fiscal year will serve as the baseline period. In that year, 6626 exams were administered which yields a productivity of 1.2 examinations per staff hour.

Productivity Target

To meet the 15% productivity increase target the examination unit will have to reach 1.4 examinations per staff hour.

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Item E

Budget Update

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BOARD OF BEHAVIORAL SCIENCES
EXPENDITURE REPORT FY 2005/2006

OBJECT DESCRIPTION	FY 2004/2005	FY 2005/2006			
	ACTUAL EXPENDITURES	BUDGET ALLOTMENT	CURRENT YEAR AS OF 5/31/06	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
PERSONAL SERVICES					
Salary & Wages (Civ Svc Perm)	1,005,615	1,190,617	957,824	1,075,000	115,617
Salary & Wages (Stat Exempt)	82,863	81,420	77,008	84,132	(2,712)
Temp Help (907)(Seasonals)	27,338	14,105	24,738	28,000	(13,895)
Temp Help (915)(Proctors)	0	19,444	0	0	19,444
Board Memb (Per Diem)	9,800	12,900	7,800	10,000	2,900
Overtime	1,399	7,533	5,328	7,533	0
Totals Staff Benefits	490,027	507,933	434,314	507,933	0
Salary Savings	0	(54,514)			(54,514)
TOTALS, PERSONAL SERVICES	1,617,042	1,779,438	1,507,012	1,712,598	66,840
OPERATING EXP & EQUIP					
Fingerprint Reports	4,766	162,954	3,984	5,000	157,954
General Expense	40,542	52,416	54,491	55,000	(2,584)
Printing	45,078	85,377	0	62,000	23,377
Communication	9,232	24,460	8,464	8,000	16,460
Postage	71,831	97,944	97,650	90,000	7,944
Travel, In State	50,908	54,082	45,970	54,082	0
Travel, Out-of-State	0	0	0	0	0
Training	12,652	15,288	20,606	20,000	(4,712)
Facilities Operations	190,379	207,867	164,818	175,000	32,867
C&P Services - Interdept.	2,059	25,833	0	2,000	23,833
C&P Services-Ext (Hatton)	16,595	9,119	3,025	16,000	(6,881)
DEPARTMENTAL PRORATA					
DP Billing	284,922	252,057	231,053	252,057	0
Indirect Distribution Costs	291,069	279,388	256,104	279,388	0
Communication/Educ. Division	14,700	16,091	14,750	16,091	0
D of I Prorata	8,177	7,854	7,228	7,854	0
Interagency Services (OER IACs)	194,926	0	126,570	194,000	(194,000)
Consolidated Data Services	4,499	20,250	2,266	6,000	14,250
Data Processing (Maint,Supplies,Contract)	10,655	4,383	10,264	13,000	(8,617)
Central Admin. Svcs - Pro Rata	159,995	146,345	146,344	146,345	0
EXAM EXPENSES					
Exam Site Rental	80,028	192,079	48,810	75,000	117,079
Exam Contract (Thomson) (404.00)	332,191	277,744	259,751	375,000	(97,256)
Expert Examiners (404.03)	290,841	448,223	184,024	300,000	148,223
ENFORCEMENT					
Attorney General	257,656	517,625	278,619	400,000	117,625
Office of Admin. Hearing	45,395	149,421	31,777	45,000	104,421
Court Reporters	7,968	0	1,623	10,000	(10,000)
Evidence/Witness Fees	17,194	59,247	39,188	45,000	14,247
Division of Investigation	66,333	42,788	21,439	42,788	0
Minor Equipment (226)	82,704	37,100	12,991	30,000	7,100
Major Equipment	31,034	10,000	0	5,000	5,000
TOTAL, OE&E	2,621,479	3,195,935	2,071,809	2,729,605	466,330
TOTAL EXPENDITURES	\$4,238,521	\$4,975,373	\$3,578,821	\$4,442,203	\$533,170
Fingerprints	(4,512)	(150,000)	3,880	(5,000)	(146,120)
Other Reimbursement	(22,772)	(26,000)	13,360	(26,000)	(12,640)
Unscheduled Reimbursements	(27,826)	0	16,624	(20,000)	(16,624)
Total Reimbursements	(55,110)	(176,000)	33,864	(51,000)	(175,384)
NET APPROPRIATION	\$4,183,411	\$4,799,373	\$3,612,685	\$4,391,203	\$357,786

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(Dollars in Thousands)

Governor's Budget 2006-07+ iLicensing + Proposed BCP

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED

B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2006-07

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Item F

Quarterly Licensing Statistics

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QUARTERLY LICENSING STATISTICS

(4/1/2006- 6/30/2006)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	445	645	247	422	38	1,797
Applications Approved	380	564	199	417	26	1,586
Avg. Processing Time	21.4 days	27.9 days	40.7 days	38 days	46.1 days	34.8 days
Avg. Processing Time subtracting time for deficiencies	10.6 days	5.9 days	10.3 days	11.8 days	2.5 days	8.2 days

QUARTERLY LICENSING STATISTICS

(1/1/2006- 3/31/2006)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	298	548	231	372	13	1,462
Applications Approved	298	525	167	367	15	1,372
Avg. Processing Time	36.6 days	37.9 days	36.2 days	45.4 days	68.7 days	45 days
Avg. Processing Time subtracting time for deficiencies	9.5 days	12.6 days	13.5 days	19 days	12.3 days	13.4 days

QUARTERLY LICENSING STATISTICS

(10/1/2005- 12/31/2005)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	334	537	248	284	20	1,423
Applications Approved	339	621	194	298	14	1,466
Avg. Processing Time	39 days	34.4 days	26 days	64.1 days	50.6 days	42.8 days
Avg. Processing Time subtracting time for deficiencies	10.7 days	12.5 days	12.7 days	41.8 days	8.3 days	17.2 days

QUARTERLY LICENSING STATISTICS

(7/1/2005 - 9/30/2005)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	561	1,062	270	390	28	2,311
Applications Approved	547	957	252	325	20	2,101
Avg. Processing Time	28.1 days	33.3 days	35.6 days	60.3 days	41.3 days	39.7 days
Avg. Processing Time subtracting time for deficiencies	9.4 days	13.8 days	18.4 days	44.9 days	8.8 days	19.1 days

QUARTERLY LICENSING STATISTICS

(4/1/2005-6/30/2005)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	377	599	263	338	37	1,614
Applications Processed	346	460	301	298	33	1,438
Avg. Processing Time	47.5 days	42.1 days	51.1 days	63.8 days	64.8 days	53.9 days
Avg. Processing Time subtracting time for deficiencies	11.1 days	12.6 days	37 days	49.9 days	6.4 days	23.4 days

**State of California
Board of Behavioral Sciences**

Memorandum

To: Board Members **Date:** July 11, 2006
From: Mona C. Maggio **Telephone:** (916) 574-7841
Assistant Executive Officer
Subject: Agenda Item V - Communications Committee Report

The Communications Committee met on Wednesday, June 28, 2006 in Los Angeles.

There were no actions items.

- The committee conducted a review of progress on achieving the strategic objectives under Goal 1. [Item A]
- The committee reviewed the revisions to the Frequently Asked Questions (FAQ) from Students.
- The committee reviewed the draft handbook for examination candidates.
- The committee reviewed charts that define hours needed for MFT and LCSW examination eligibility. [Item B]

For more detailed information on these items see the attached draft minutes from the committee meeting. [Item C]

The next meeting of the committee is scheduled for September 27, 2006.

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Item A

Strategic Plan Update

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State of California
Board of Behavioral Sciences

Memorandum

To: Board Members

Date: July 13, 2006

From: Mona C. Maggio
Assistant Executive Officer

Telephone: (916) 574-7841

Subject: **Agenda Item V - Strategic Plan Goal #1 - Report on Progress**

Goal #1 - Communicate Effectively With the Public and Mental Health Professionals.

Objective 1.1 -- Provide Six Educational Opportunities for Stakeholders and Staff on BBS Budget by July 30, 2006.

Background

In an effort to demystify the state budget process, staff will present updates as part of its educational opportunities to its stakeholders.

Update

Ms. Gershon prepared an article entitled *Understanding the Board's Budget* for the Board's Spring 2006 newsletter. A presentation tailored to the public is included during outreach presentations such as student and educator forums.

Staff has identified this objective as being met.

Objective 1.2 -- Distribute a Handbook Outlining Licensing Requirements by December 31, 2006 to 100% of California Schools Offering Qualifying Degrees.

Background

The Board identified a need to provide students and educators with an outline of examination and licensing requirements to assist students in their education and career development.

Update

Staff is currently reviewing the formerly used "Frequently Asked Questions" information, which will serve as a basis for the handbook. To meet the immediate needs of examination candidates, staff drafted a pamphlet that answers the most commonly asked questions from candidates. The Committee reviewed the pamphlet at its March 29, 2006 meeting. Suggested edits were made and the pamphlet is now included with the notice to candidates informing them of their eligibility to sit for the initial written examination.

At the June 28, 2006 meeting the Committee reviewed two charts, one for

MFT and the other for LCSW examination candidates which provides a detailed explanation of the hours needed to meet the examination eligibility requirements. The Committee and audience participants provided suggested edits. The edits have been made and the charts are included in today's meeting packet for the Board's review. Once approved the charts will be included in the Student Handbook, posted to the Board's website and provided to schools for distribution to students.

Objective 1.3 -- Distribute Consumer Publication Regarding Professions Licensed by the Board by June 30, 2007.

Background

The Board identified a need to provide information to its stakeholders regarding various services, i.e., complaint process, licensing process, examinations, how to select a therapist, etc.

Update

As part of the continuing development of an Outreach Program, the Board will contract with a public relations firm to assist in the development of brochures, handouts, PowerPoint presentations and restructure the Board's website, as well as identify the Board's primary constituency groups and their needs. Staff finalized the Public Relations Statement of Work and Project Deliverables for the PR contract bidding process. In mid-May, staff met with the PR firms that submitted proposals for consideration. Staff finalized the selection process and the contract is in the final approval process. Staff is hopeful that the contract firm will be complete by July 2006. The PR firm will make a presentation before the Communications Committee in September 2006.

Objective 1.4 - Achieve 60% On Customer Service Satisfaction Surveys by June 30, 2008.

Background

At the Strategic Planning meetings, it was determined that good customer service is essential in meeting goal #1: to Communicate Effectively With the Public and Mental Health Professionals. This objective was created to measure the level of customer satisfaction with Board activities. The purpose of the surveys, which is to aid in the Board's goal of improving customer satisfaction levels.

Status

The website version of the survey was posted to the Board's website on June 12, 2006. As of July 12, 2006, the Board has received 175 responses. The implementation of the surveys to be mailed out will begin in July 2006. The rollout was delayed by due to the postage paid envelopes not being received.

Objective 1.5 --

Participate Four Times Each Year in Mental Health Public Outreach Events Through June 30, 2010.

Background

In an effort to expand its outreach and provide effective communication to the public and mental health professionals, the Board determined that it should participate in mental health public outreach events four or more times per year.

Status

Part of the PR firms' responsibilities will be to help identify the appropriate mental health outreach events. Staff has participated in a number of events that have provided an opportunity to communicate the Board's mission and vision with its various stakeholders:

- On April 21-22, 2006, Sean O'Connor, Outreach Coordinator and Paul Riches, Executive Officer represented the Board at the NASW Conference in Los Angeles. The Board had a booth with handouts of information on license renewal, continuing education requirements, supervision, and advertising guidelines among other topics. Traffic at the booth was steady as the Board representatives answered questions from conference attendees on a variety of Board related topics.
- On May 4-7, 2006, Mr. O'Connor, Program Manager Kim Madsen and board member Joan Walmsley represented the Board at the CAMFT Annual conference in Palm Springs. Again the Board had a booth with handouts similar to those distributed at the NASW conference. Many of those in attendance at both conferences expressed gratitude for the Board having representation at these events.
- On April 28, 2006 the Board hosted "California's Diverse Consumers: Implications for Licensure – A Working Conference." This day long event consisted of presentations by Joe Hayes, Public Policy Institute of California; Dr. Sergio Aguilar-Gaxiola, UC Davis School of Medicine and Rachel G. Guerrero, LCSW Chief Office of Multicultural Services, California Department of Mental Health, Peter Manoleas, Chairman of the Board and Paul Riches, Executive Officer. Staff has categorized the participants suggestions into the following groups: 1) general ideas for the Board to consider; 2) topics for schools and students; 3) requirements to become licensed; 4) board examinations; 5) requirements for current board licensees; 6) research; 7) board professions; 8) workforce; and 9) other/resources. Staff will discuss which topics are appropriate for the Board to address and which topics might best be addressed by other entities.
- In June 2006, Joan Walmsley attended the NASW Board Meeting and Leadership Conference. She responded to audience questions and concerns.
- Additionally, Mr. Riches and staff participate in the quarterly MFT Consortiums with educators and students; and Staff and Board Members are participating on the various workforce groups as part of the Mental Health Services Act.

Objective 1.6 --**Review and Revise Website Content Four Times Per Year.**

Staff has identified this as an ongoing objective and recommends the "review and revise website content" be completed every six months rather four times per year. This will be completed so that it coincides with effective dates on legislation that may impact board operations, procedures, contents, processes, forms, etc.

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Background

One of the goals of the 2005 Strategic Plan is to communicate effectively with the public and mental health professionals. The BBS website provides valuable information regarding various Board services, regulatory functions, examinations, enforcement, licensing, licensee status, etc.

Status

The June "bi-annual" review of the overall website is complete. To assist staff in the review process, Lynne' Stiles, IT Specialist developed guidelines and a check sheet specific to each program to ensure a thorough review of information that is posted to the website. Staff make regular updates and reviews of the Board's website continuously.

One task the PR firm will perform is to review our current website and make suggestions as to a more "user friendly" layout, site map, and appropriate placement of information to assist our audiences in locating the information they need.

Objective 1.7

Student Outreach

Staff determined that the success of the Board's Student Outreach Program warranted consideration for the adoption of a new student outreach objective to the Strategic Plan.

At its May 18, 2006 meeting, the Board adopted a new Strategic Plan Objective 1.7 – Student Outreach.

The Spring 2006 academic semester is the first full semester in which the Board has had an operational outreach program. Thirteen events have been scheduled, and nine visits completed. Most student outreach events will occur in the fall or spring academic semesters. Some schools have summer programs, so presentations during the summer months will be possible but likely less frequent. The response to the student outreach is overwhelmingly positive.

Status

Mr. O'Connor presented to a group of MFT interns and trainees at the Whitehouse Counseling Center in Sacramento. On June 9, 2006, Kari Frank, Lead Analyst in the Licensing Unit gave a student presentation in conjunction with the MFT Consortium Meeting held at Phillips Graduate Institute. Mr. Riches, Ms Maggio and Board Members, Dr. Ian Russ and Karen Pines also attended. Scheduled outreach events:

- July 8, 2006 at the University of San Francisco, Sacramento Campus (MFT program)
- August 7 – 8, 2006 at John F. Kennedy's Oakland, Campbell, and Pleasant Hill Campuses (MFT programs)
- August 17, 2006 at California State University, Chico (MFT program)
- University of California Los Angeles (LCSW) for the fall semester with a date TBA.

Mr. O'Connor is currently contacting schools to schedule presentations for the Fall semester.

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Item B

Supervision Requirements Chart

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MFT Experience

	EXPERIENCE TYPE	ALLOWED PRE-DEGREE?	ALLOWED POST-DEGREE?	MINIMUMS AND MAXIMUMS	NOTES
Clinical Experience	1. Individual Counseling or Psychotherapy (performed by you)	Yes	Yes	No Minimum or Maximum	No pre- or post-degree hours are required performing individual psychotherapy, though many people gain hundreds of hours in this area due to the limitations of other categories.
	2. Couples, Family and Child Psychotherapy (performed by you)	Yes	Yes	Minimum 500 hours REQUIRED	May be completed pre- or post-degree or a combination of both.
	3. Group Therapy or Counseling (performed by you)	Yes	Yes	Maximum 500 hours	May be completed pre- or post-degree or a combination of both.
	4. Telephone Counseling (performed by you)	Yes	Yes	Maximum 250 hours	May be completed pre- or post-degree or a combination of both.
	NOTE ABOUT PRE-DEGREE EXPERIENCE: A minimum of 150 total hours of experience from categories 1, 2 and 3 above are required pre-degree. A maximum of 750 hours of clinical experience, including direct supervisor contact, can be counted pre-degree. EXAMPLE: A trainee earns 625 hours of clinical experience comprising a combination of categories 1, 2, 3, and 4. In addition, the trainee earns 125 hours of individual supervision pre-degree.				
Supervision	5. Supervision, One-on-One*	Yes	Yes	Minimum 52 Hours	May be completed pre- or post-degree or a combination of both. Note: These may be non-consecutive weeks.
	6. Supervision, Group* Not more than eight (8) supervisees in the group	Yes	Yes	No Minimum or Maximum	No pre- or post-degree hours are required to be completed in this area.
	NOTE: A TOTAL MINIMUM of 104 hours of supervision is required. Interns and trainees are required to have a minimum of one (1) hour of individual supervision, OR two (2) hours of group supervision for each week in which experience is claimed for each work setting. A maximum of five (5) hours of supervision may be credited per week.				
	Supervision RATIOS Required for Clinical Experience: Ratio: <i>Hours of Clinical Experience to Units** of Supervision</i> **One unit of supervision is equal to one (1) hour of individual or two (2) hours of group supervision.	Pre-Degree 5 to 1 Required		Post-Degree 10 to 1 Required	Trainees are required to have a minimum of one hour of direct supervisor contact for every five (5) hours of client contact in each setting. Interns are required to have a minimum of one hour of direct supervisor contact for every ten (10) hours of client contact in each setting. These ratios can be calculated based on the average number of hours gained over the entire period of time an intern or trainee works in a particular setting (see example below).
	EXAMPLE: An intern receives 11 hours of clinical experience and 2 hours of group supervision (one unit of supervision) the first week, 13 hours of clinical experience and 1 hour of individual supervision (one unit of supervision) the second week, and 16 hours of clinical experience and 4 hours of group supervision (two units of supervision) the third week. This totals 40 hours of clinical experience and 4 units of supervision. The intern has met the required supervision ratio because she has an average, over the three-week period, of 10 hours of clinical experience for every 1 unit of supervision.				

	EXPERIENCE TYPE	ALLOWED PRE-DEGREE?	ALLOWED POST-DEGREE?	MINIMUMS AND MAXIMUMS	NOTES
Miscellaneous	7. Attending Workshops, Seminars, Training Sessions or Conferences*	Yes	Yes	Maximum 250 hours	May be completed pre- or post-degree or a combination of both.
	8. Psychotherapy (received by you)*	Yes	Yes	Maximum 100 hours X 3	Up to 100 hours may be earned. These hours are triple-counted by the Board. Hours may be completed pre- or post-degree or a combination of both.
	9. Administering and Evaluating Psychological Tests of Counselors, Writing Clinical Reports, Writing Progress Notes, or Writing Process Notes	NO	Yes	Maximum 250 hours	May be completed post-degree only.
TOTALS	Weeks of Experience REQUIRED			Minimum 104 weeks	Completed pre and post degree.
	Total Hours of Experience REQUIRED			Maximum 1,300 hours PRE-DEGREE Minimum 1,700 hours POST-DEGREE Minimum 3,000 hours TOTAL	1,300 hours of pre-degree experience = 750 clinical experience and supervision hours + 250 workshops, seminars, etc. hours + (100 hours X 3) personal psychotherapy

*Of the 3,000 hours of required experience, the combined subtotal for Workshops, Seminars, Training Sessions or Conferences, Personal Psychotherapy Received, and Supervision Hours may not exceed 1000 hours. *[B&P Code 4980.43 (a)(7)]*

The information provided in this publication is general and intended to serve as a quick answer guide for common questions. The *Statutes and Regulations Relating to the Practice of Marriage and Family Therapy, Licensed Clinical Social Work, and Licensed Educational Psychology* contains the official legal code sections and language.

The BBS encourages you to thoroughly read the *Statutes and Regulations* and refer to it in cases that require official legal language.

LCSW Experience

EXPERIENCE TYPE	MINIMUMS AND MAXIMUMS	NOTES
<ul style="list-style-type: none"> Clinical psychosocial diagnosis Assessment Treatment Psychotherapy Counseling 	<p>Minimum 2,000 hours REQUIRED</p> <p>Minimum 750 hours of performing face-to-face individual or group psychotherapy is REQUIRED as part of this 2,000 hours</p>	One hour of direct supervisor contact* is required for any week in which more than 10 hours of face-to-face psychotherapy is performed for each setting in which experience is gained.
<ul style="list-style-type: none"> Client-centered advocacy Consultation Evaluation Research 	Maximum 1,200 hours allowed	
<ul style="list-style-type: none"> Supervision, Individual 	Minimum 52 weeks REQUIRED, 13 of which must be supervised by a LCSW	One hour of direct supervisor contact* is required for a minimum of 104 weeks.
<ul style="list-style-type: none"> Supervision, Group (not more than eight (8) supervisees in the group) 	No minimum or maximum	No more than five hours of supervision may be credited during any single week.
Total Weeks of Experience REQUIRED	Minimum 104 weeks	
Total Hours REQUIRED	Minimum 3,200 hours**	Maximum of 40 hours experience may be credited for any week.

* One hour of direct supervisor contact means one hour of individual supervision or two hours of group supervision

** A minimum of 1,700 hours must be gained under the supervision of a LCSW

NOTE: All hours of experience for licensure must be gained post-degree.

The information provided in this publication is general and intended to serve as a quick answer guide for common questions. The *Statutes and Regulations Relating to the Practice of Marriage and Family Therapy, Licensed Clinical Social Work, and Licensed Educational Psychology* contains the official legal code sections and language.

The BBS encourages you to thoroughly read the *Statutes and Regulations* and refer to it in cases that require official legal language.

**State of California
Board of Behavioral Sciences**

Memorandum

To: Board Members **Date:** July 11, 2006
From: Paul Riches **Telephone:** (916) 574-7840
Executive Officer
Subject: Policy and Advocacy Committee Report

Action Items

#A -- Regulations Related to Supervisor Qualifications [16CCR1833.3 & 16CCR1870].

The committee recommends that the board pursue regulation changes to the sections relating to the qualifications of supervisors per the attached proposal.

#B -- Regulations Regarding Abandonment of Application Files (16CCR1806 & 1833.3).

The committee recommends that the board pursue regulations to resolve conflicts between board regulations relating to the abandonment of application files.

#C -- Technical Regulation Cleanup Related to LEP and Board Administration Statutory Changes.

The committee recommends that the board pursue regulations related to licensed educational psychologists and board administration consistent with the statutory changes pending in Senate Bill 1475.

Other Committee Items

The Policy and Advocacy Committee met on Friday, January 20, 2006 in Los Angeles.

In addition to the action items above, the committee:

- Conducted a review of progress on achieving the strategic objectives under Goal #4. [Item D]
- Received an update on current legislative activity. [Item E]
- Received an update on current regulation activity. [Item F]
- Discussed AAMFT request to review portability of MFT licenses.
- Received a report on effort to increase reporting of malpractice settlements.

For more detailed information on these items see the attached draft minutes from the committee meeting. [Item G]

The next meeting of the committee is scheduled for September 27, 2006.

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Item A

Supervisor Qualifications

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**State of California
Board of Behavioral Sciences**

M e m o r a n d u m

To: Board Members **Date:** July 10, 2006
From: Christy Berger **Telephone:** (916) 574-7847
Legislation Analyst
Subject: Review and Possible Action on Draft Regulations Related to Supervisor Qualifications

Background

Section 1833.1 of the board's regulations describes the requirements for supervisors of MFT Interns and Trainees, including a requirement that the supervisor "...has practiced psychotherapy for at least two years in the five year period immediately preceding any supervision and has averaged at least five patient/client contact hours per week."

Section 1870 of the board's regulations describes the requirements for supervisors of Associate Clinical Social Workers (ASW) including a requirement that the supervisor "...has practiced psychotherapy as part of his/her clinical experience for at least two years within the last five years immediately preceding supervision."

The board currently interprets supervision of an MFT Trainee, MFT Intern or ASW to be "psychotherapy" for the purposes of meeting the practice requirement in Sections 1833.1 and 1870. The proposed regulation would make this interpretation explicit in the regulation. It would also delete the requirement that supervisors of MFT Interns or Trainees average five patient/client contact hours per week.

At its February 2003 meeting, the Board approved this proposal. However, the rulemaking process was never initiated for these changes. The proposed changes and recent revisions to the proposed language were taken up for review again at the January 2006 meeting of the Board's Policy and Advocacy Committee. However, the Committee declined to take action until receiving the results of the supervision survey.

At its April 2006 meeting, the Policy and Advocacy Committee recommended to the Board that the proposed language be adopted. However, at the May 2006 Board meeting, several board members expressed concern that some licensees would become a supervisor after only 2 yrs of licensure, never see clients again, but remain a supervisor for the rest of their working life. However, there were concerns expressed by stakeholders that the current restrictions are decreasing the number of licensees qualified to supervise. The Board decided to return this proposal back to the Committee for further review and discussion.

Recommendation

At its June 28, 2006 meeting, the Policy and Advocacy Committee recommended to the Board that the original language of the proposal be retained.

Attachments

Proposed Language Section 1833.1
Proposed Language Section 1870

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BOARD OF BEHAVIORAL SCIENCES
Proposed Language

Amend Section 1833.1 of Division 18 of Title 16 as follows:

1833.1. REQUIREMENTS FOR SUPERVISORS

~~(a) Any person supervising a trainee or an intern or trainee (hereinafter "supervisor") within California shall comply with the requirements set forth below and shall, prior to the commencement of such supervision, sign under penalty of perjury the "Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Intern" revised 2-05 requiring that: below.~~

(a) Prior to the commencement of supervision, the supervisor shall sign under penalty of perjury the "Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Intern" revised 12-05 requiring that:

(1) The supervisor possess and maintains a current valid California license as either a marriage and family therapist, licensed clinical social worker, licensed psychologist, or physician who is certified in psychiatry as specified in Section ~~4980.40 (f)~~ 4980.03 (g) of the Code and has been so licensed in California for at least two years prior to commencing any supervision; or

(A) Provides supervision only to trainees at an academic institution that offers a qualifying degree program as specified in Section 4980.40 (a) of the Code; and

(B) Has been licensed in California as specified in Section ~~4980.40 (f)~~ 4980.03 (g) of the Code, and in any other state, for a total of at least two years prior to commencing any supervision.

~~(2) If such supervisor is~~ A supervisor who is not licensed as a marriage and family therapist, ~~he or she~~ shall have sufficient experience, training, and education in marriage and family therapy to competently practice marriage and family therapy in California.

(3) The supervisor keeps himself or herself informed of developments in marriage and family therapy and in California law governing the practice of marriage and family therapy.

(4) The supervisor has and maintains a current license in good standing and will immediately notify the trainee or intern or trainee of any disciplinary action, including revocation or suspension, even if stayed, probation terms, inactive license status, or any lapse in licensure, that affects the supervisor's ability or right to supervise.

(5) The supervisor has practiced psychotherapy or provided direct supervision of trainees, interns, or associate clinical social workers who perform psychotherapy for at least two (2) years within the five (5) year period immediately preceding any supervision ~~and has averaged at least five (5) patient/client contact hours per week.~~

(6) The supervisor has had sufficient experience, training, and education in the area of clinical supervision to competently supervise trainees or interns.

(A) ~~Effective January 1, 2000, supervisors~~ Supervisors who are licensed by the board shall complete a minimum of six (6) hours of supervision training or coursework every two (2) years. This training or coursework may apply towards the continuing education requirements set forth in Sections 4980.54 and 4996.22 of the Code.

~~(B) Supervisors who are licensed by the board who have completed a minimum of six (6) hours of supervision training or coursework between January 1, 1997, and December 31, 1999, may apply that training towards the requirement described in subsection (A).~~

~~(C)~~ (B) Supervisors who are licensed by the board who ~~commence supervision on and after January 1, 2000, and~~ have not met requirements of subsection paragraph (A), shall complete a minimum of six (6) hours of supervision training or coursework within sixty (60) days of commencement of supervision.

(7) The supervisor knows and understands the laws and regulations pertaining to both the supervision of trainees and interns and the experience required for licensure as a marriage and family therapist.

(8) The supervisor shall ensure that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the trainee or intern or trainee.

(9) The supervisor shall monitor and evaluate the extent, kind, and quality of counseling performed by the trainee or intern or trainee by direct observation, review of audio or video tapes of therapy, review of progress and process notes and other treatment records, or by any other means deemed appropriate by the supervisor.

(10) The supervisor shall address with the trainee or intern or trainee the manner in which emergencies will be handled.

(b) Each supervisor shall provide the trainee or intern or trainee with the original signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 12-05 prior to the commencement of any counseling or supervision. ~~The intern~~ Trainees and interns shall provide the board with ~~his or her~~ the signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 12-05 from each supervisor upon application for licensure. ~~The trainee shall provide the board with his or her signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 12-05 from each supervisor upon application for internship.~~

(c) A supervisor shall give at least one (1) week's written notice to ~~an~~ a trainee or intern or trainee of the supervisor's intent not to certify any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.

(d) The supervisor shall obtain from ~~any~~ each trainee or intern or trainee for ~~whom~~ whom supervision will be provided, the name, address, and telephone number of the trainee's or intern's or trainee's most recent supervisor and employer.

(e) In any setting that is not a private practice, a supervisor shall evaluate the site(s) where ~~an~~ a trainee or intern or trainee will be gaining hours of experience toward licensure and shall determine that: (1) the site(s) provides experience which is within the scope of marriage and family therapy; and (2) the experience is in compliance with the requirements set forth in this section.

(f) Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

~~(g) The supervisor responsibility statement required by this section shall be used for supervisorial relationships commencing on or after 1-1-98.~~

~~(h)~~ (g) The board shall not deny hours of experience gained towards licensure by any supervisee due to failure of his or her supervisor to complete the training or coursework requirements in ~~subsection (a) (6)~~ subparagraph (a)(6)(A).

NOTE: Authority cited: Section 4980.35, 4980.40(f) and 4980.60, Business and Professions Code. Reference: Sections 4980.35, 4980.40(f), 4980.42 through 4980.45, 4980.54 and 4996.22, Business and Professions Code.

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BOARD OF BEHAVIORAL SCIENCES

Proposed Language

Amend Section 1870 of Division 18 of Title 16 as follows:

1870. REQUIREMENTS FOR ASSOCIATE CLINICAL SOCIAL WORKER SUPERVISORS

~~(a) Any person supervising an associate clinical social worker registered with the board on and after May 10, 1999, (hereinafter called "supervisor") within California shall comply with the requirements set forth below and shall, prior to the commencement of such supervision, sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (revised 07/05), which requires that: below.~~

(a) Prior to the commencement of supervision, the supervisor shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (revised 12/05), which requires that:

(1) The supervisor possesses and will maintain a current valid California license as ~~either~~ a licensed clinical social worker or a licensed mental health professional acceptable to the Board as specified in ~~Section 4996.21(a) of the Code and Section 1874 of California Code of Regulations.~~

(2) The supervisor has and will maintain a current license in good standing and will immediately notify the associate of any disciplinary action, including revocation, suspension (even if stayed), probation terms, inactive license, or any lapse in licensure, that affects the supervisor's ability or right to supervise.

(3) The supervisor has practiced psychotherapy or provided direct supervision of associates, or marriage and family therapist interns or trainees who perform psychotherapy ~~as part of his/her clinical experience~~ for at least two (2) years within the last five (5) years immediately preceding supervision.

(4) The supervisor has had sufficient experience, training and education in the area of clinical supervision to competently supervise associates. ~~Effective January 1, 2001, supervisors who are licensed by the board shall have:~~

(A) ~~A-Effective January 1, 2001, supervisors who are licensed by the board shall have a~~ minimum of fifteen (15) contact hours in supervision training obtained from a state agency or approved continuing education provider. This training may apply towards the approved continuing education requirements set forth in Sections 4980.54 and 4996.22 of the Code. The content of such training shall include, but not be limited to:

~~1. familiarity~~ (i) Familiarity with supervision literature through reading assignments specified by course instructors;

~~2. facilitation~~ (ii) Facilitation of therapist-client and supervisor-therapist relationships;

~~3. evaluation~~ (iii) Evaluation and identification of problems in therapist-client and supervisor-therapist relationships;

~~4. structuring~~ (iv) Structuring to maximize supervision, including times and conditions of supervision sessions, problem solving ability, and implementing supervisor interventions within a range of supervisory modalities including live, videotape, audiotape, and case report methods;

~~5. knowledge~~ (v) Knowledge of contextual variables such as culture, gender, ethnicity, and economic issues; and

~~6. the~~ (vi) The practice of clinical social work, including the mandated reporting laws, and knowledge of ethical and legal issues.

(5) The supervisor knows and understands the laws and regulations pertaining to both supervision of associates and the experience required for licensure as a clinical social worker.

~~(6) The supervisor shall ensure that the extent, kind and quality of clinical social work performed is consistent with the training and experience of the person being supervised and shall review client/patient records, monitor and evaluate assessment and treatment decisions of the associate clinical social worker, and monitor and evaluate the ability of the associate to provide services at the site(s) where he or she will be practicing and to the particular clientele being served, and ensure compliance with all laws and regulations governing the practice of clinical social work.~~

(6) The supervisor shall do all of the following:

(A) Ensure that the extent, kind and quality of clinical social work performed by the associate is consistent with the training and experience of the person being supervised.

(B) Review client/patient records and monitor and evaluate assessment and treatment decisions of the associate clinical social worker.

(C) Monitor and evaluate the ability of the associate to provide services at the site(s) where he or she will be practicing and to the particular clientele being served.

(D) Ensure compliance with all laws and regulations governing the practice of clinical social work.

~~(7) Effective January 1, 1999, the~~ The supervisor and the associate shall develop the "Supervisory Plan" as described in Section 1870.1 ~~of the California Code of Regulations.~~ This The associate shall submit the original signed plan for each supervisor shall be submitted to the board upon application for licensure.

(8) The supervisor shall provide the ~~board~~ associate with the original, signed "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (revised 12-05), ~~within 30 days of prior to commencement of any supervision. A copy of this form shall be provided to the associate by the supervisor. The associate shall provide the board with the original signed form for each supervisor upon application for licensure.~~

(9) A supervisor shall give at least one (1) week's written notice to an associate of the supervisor's intent not to certify any further hours of experience for such person. A

supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.

(10) ~~Effective January 1, 1999, the~~ The supervisor shall complete an assessment of the ongoing strengths and limitations of the associate. The assessments shall be completed at least once a year and at the completion or termination of supervision. A copy of all assessments shall be provided to the associate by the supervisor.

(11) Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

(b) The board shall not deny hours of experience gained toward licensure by any associate due to the failure of his or her supervisor to complete the training requirements specified in subparagraph (a)(4)(A).

Note: Authority cited: Section 4990.14, Business and Professions Code. Reference: ~~Section~~ Sections 4980.54, 4996.21, 4996.22, and 4996.23, Business and Professions Code.

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Item B

Abandonment of Application Files

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State of California
Board of Behavioral Sciences

Memorandum

To: Board Members
From: Christy Berger
Legislation Analyst
Date: July 10, 2006
Telephone: (916) 574-7847
Subject: Review and Possible Action on Regulations Regarding Abandonment of Application Files

Background

In the past, the Board issued filing deadlines for oral examination applications. The Board no longer administers an oral examination, although the ability to set application filing deadlines is still permitted by Title 16, California Code of Regulations (CCR), Section 1805(b). This regulation is no longer needed.

The Board now administers examinations on a continuous basis, and implements new examination versions approximately once every six months. In order to ensure that applicants retaking an examination take a different version of the examination, the Board requires a 160- to 180-day waiting period between examination attempts. This waiting period is not required by law, though the Board has a strong legal rationale for the waiting period. This waiting period should be formalized in law.

Additionally, applicants are required to take an examination within certain time frames (typically one year) or their application becomes “abandoned.” When an application is abandoned, it is considered closed and the applicant must reapply should he or she wish to continue pursuing licensure. This new application requires the applicant to meet all current requirements and to pay the application fee.

The intent is to provide all candidates with a one-year period in which to take an examination, prior to considering the application abandoned. However, staff has discovered that there are conflicting laws regarding this one-year time period that may actually provide some candidates with more than one year.

Discussion

CCR Section 1806(c) requires candidates to take an examination within one year of notification of eligibility to take the examination. CCR Section 1833 and Business and Professions Code (BPC) Sections 4986.80(f) and 4996.4¹ require an applicant who fails an examination to retake that examination within one year from the date of the failure.

CCR Section 1806(c) is intended to apply only to first-time applicants for the standard written examination and first-time applicants for the clinical vignette (CV) examination. Staff has been applying the regulation in this manner. Once an applicant has failed an examination, the law requiring a candidate to take the examination within one year from the date of the failure

¹ Title 16, CCR Section 1833 (Marriage and Family Therapist applicants), BPC Sections 4986.80(f) (Licensed Educational Psychologist applicants) and 4996.4 (Licensed Clinical Social Worker applicants)

applies. However, when a candidate fails an examination, he or she also receives a notice of eligibility at 160 to 180 days from the date of the failure. In this case, both laws apply.

The following examples are intended to illustrate the experience of examination candidates with the potential for application abandonment at different times in the examination process. It also indicates where laws regarding abandonment conflict.

Candidate A has just received notice that she is eligible for the first time to take the Standard Written examination. Candidate A has one year from the date of this notice of eligibility in which to take the examination. [No conflict here.]

Candidate B has just passed the Standard Written examination, and has received notice that he is eligible to take the Clinical Vignette (CV) examination. Candidate B receives his notice of eligibility to take the CV examination on the same day that he passed the Standard Written examination. Candidate B has one year from the date of his notice of eligibility to take the CV examination. [However, Candidate B also receives a “notice of eligibility” when he receives the candidate handbook from Thomson Prometric. This could buy him almost another year in which to take the examination.]

Candidate C has just failed the Standard Written examination. Candidate C receives notice that he failed the examination on the same day he takes the examination. This notice informs him that he has one year in which to retake the examination, and that he must wait 160 to 180 days between attempts. Candidate C files his application for re-examination, and at 175 days, receives a new candidate handbook informing him that he is now eligible to retake the examination. [Candidate C has a similar problem to Candidate B – which law applies to him? Must he retake the examination within one year of failing it, or within one year from receiving his notice of eligibility?]

Because CCR Section 1806 does not specify that it applies only to first-time candidates, and because an applicant is sent a notice of eligibility each time he or she becomes eligible, including after failing an examination, both laws apply in certain situations.

An applicant is notified of eligibility to take either the standard written or clinical vignette examination at the following times:

1. Upon approval of an application for licensure.
2. Upon approval of an application for examination.
3. When an applicant’s 160- to 180-day waiting period has elapsed, after approval of an application for examination.

Additionally, the requirement that applicants take an examination no more than two times in a 12-month period and the 160 to 180-day waiting period should be formalized in regulation.

Recommendation

At its June 28, 2006 meeting, the Policy and Advocacy Committee recommended that the Board pursue the attached regulatory change to Sections 1805, 1806 and 1833.3.

Attachment

Applicable Laws

Proposed Language Sections 1805, 1806, and 1833.3

BOARD OF BEHAVIORAL SCIENCES
Applicable Law Re: Abandonment of Applications

LEP – Business and Professions Code § 4986.80(f)

- (f) The fee for each reexamination shall be the fee for each examination specified in subdivision (e). An applicant who has failed the written examination may within one year from the notification date of failure, retake that examination as regularly scheduled without further application. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required. Persons failing to appear for reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

LCSW - Business and Professions Code § 4996.4

Notwithstanding Section 4996.3, an applicant who has failed any standard or clinical vignette written examination may apply for reexamination upon payment of the fee of up to one hundred fifty dollars (\$150) including the examination fee and related administrative costs. An applicant who fails a standard or clinical vignette written examination may within one year from the notification date of failure, retake that examination as regularly scheduled, without further application, upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required. Applicants failing to appear for reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

MFT – Title 16, California Code of Regulations § 1833.3

An applicant who fails any examination may within one (1) year from the date of that failure retake that examination as regularly scheduled without further application upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination unless a new application is filed, meeting all requirements, and required fees are paid.

BOARD OF BEHAVIORAL SCIENCES
Proposed Language

Title 16, California Code of Regulations
Sections 1805, 1806 and 1833.3

Amend § 1805 as follows:

(a) Applications submitted to the board for registration or licensure shall be on a form prescribed by the board.

~~(b) The board may issue final filing dates for all examinations not to exceed ninety (90) days prior to any examination. An applicant who fails to submit a complete examination application to the board by a final filing date shall not be eligible for that examination and his or her application shall be considered abandoned if it meets the criteria in Section 1806(c).~~

(b) A 180-day waiting period is required between examinations for any applicant retaking an examination.

Amend § 1806 as follows:

An application shall be deemed abandoned if under any of the following circumstances:

(a) The application has not been completed by the applicant within one (1) year after it has been filed. An application shall be deemed complete when all documents and information required have been submitted to the ~~board~~; or board.

(b) The applicant does not submit information ~~showing that he or she has corrected~~ required in order to correct the deficiencies specified in a deficiency letter within one (1) year from the date of the deficiency ~~letter~~; or letter.

(c) The applicant fails to sit for the standard written examination within one (1) year after being notified of eligibility; or initial eligibility for the first time to take either of the following: the standard written examination.

~~—(1) Standard written examination.~~

~~—(2) Clinical vignette examination.~~

(d) The applicant fails to sit for the clinical vignette examination within one year of being notified of passing the standard written examination.

(e) An applicant fails to retake an examination within one year from the date the applicant was notified of the failure failing an examination.

~~(d)~~ (f) The applicant fails to pay the initial license fee within one (1) year after notification by the board of successful completion of examination requirements.

An application submitted ~~subsequent to the abandonment of a prior application after an application has been abandoned~~ shall be treated as a new application. application, including any fees required, and current requirements.

Delete § 1833.3 as follows:

~~An applicant who fails any examination may within one (1) year from the date of that failure retake that examination as regularly scheduled without further application upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination unless a new application is filed, meeting all requirements, and required fees are paid.~~

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Item C

LEP and Board Administration Regulation Clean-up

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State of California
Board of Behavioral Sciences

Memorandum

To: Board Members
From: Christy Berger
Legislation Analyst
Date: July 10, 2006
Telephone: (916) 574-7847
Subject: Review and Possible Action on Technical Regulation Cleanup Related to LEP and Board Administration Statutory Changes

Background

The Board is seeking to update the Licensed Educational Psychologist (LEP) statutes and the Board's administration statutes. This proposal is part of Senate Bill 1475 (Figueroa), as amended June 19, 2006. The Board's regulations will require some technical amendments in order to conform to these statutory changes.

Discussion

All proposed changes pertain to the LEP regulations. No changes will be needed to administration-related regulations.

Section 1854: The proposed amendment to this section is needed because the current statute, section 4986.20(a) references "...a **degree** deemed equivalent by the board..." However, the new statute, section 4989.30(a) instead references an "...**educational institution** approved by the board..."

Section 1855: This section pertains to outdated grandparenting provisions and is proposed to be deleted.

Section 1856: Subdivision (d) pertains to outdated grandparenting provisions and is proposed to be deleted.

Section 1857: This section pertains to outdated grandparenting provisions and is proposed to be deleted.

Section 1858: The content of this section has been included in section 4989.80 of the proposed statute in its entirety, except for subdivisions (b) and (j).

Recommendation

At its June 28, 2006 meeting, the Policy and Advocacy Committee recommended that the Board direct staff to initiate rulemaking to implement these changes to take effect on or after January 1, 2007.

Attachments

Proposed Language (Regulations)
Proposed Language (Statutes)

**BOARD OF BEHAVIORAL SCIENCES
PROPOSED LANGUAGE
Title 16, California Code of Regulations**

Amend Sections 1854, 1856, 1858

Delete Sections 1855, 1857

ARTICLE 5. LICENSED EDUCATIONAL PSYCHOLOGISTS

§1854.

~~Degrees deemed equivalent to those specified in Section 4986.20(a) of the Code shall include a master's degree or its equivalent obtained from a college or university accredited by one of the following agencies:~~ Educational institutions approved by the board are defined as a college or university accredited by one of the following agencies:

- (a) Western Association of Schools and Colleges.
- (b) Northwest Association of Secondary and Higher Schools.
- (c) Middle States Association of Colleges and Secondary Schools.
- (d) New England Association of Colleges and Secondary Schools.
- (e) North Central Association of Colleges and Secondary Schools.
- (f) Southern Association of Colleges and Schools.
- (g) The Credentials Evaluation Service of the International Education Research Foundation, Inc., where it evaluates the foreign degree as being equivalent to the required degree or degrees.

Authority cited: Section ~~4980.60~~ 4990.20(a), Business and Professions Code. Reference: Section ~~4986.20(a)~~ 4989.30(a), Business and Professions Code.

§1855.

~~Semester hours in instructing a course in pupil personnel services approved by the board and offered by an institution accredited by one of the accrediting agencies set forth in Section 1854 above shall be deemed equivalent, within the meaning of Section 4986.20(d) of the Code, to semester hours of postgraduate work devoted to pupil personnel services under the following conditions:~~

- ~~(1) The applicant has instructed the particular course for at least two semesters;~~
- ~~(2) The particular course has not been submitted by the applicant for credit as a postgraduate course; and~~

~~(3) The particular course is not a practicum or field work course. In addition to the above, the board may, in its discretion, recognize other experience as equivalent to semester hours of postgraduate work devoted to pupil personnel services.~~

~~Authority cited: Section 4980.60, Business and Professions Code. Reference: Section 4986.20, Business and Professions Code.~~

§1856.

(a) No more than one year of experience will be granted for any 12 month period.

(b) Part time experience may be accumulated provided that the experience is obtained within six (6) calendar years.

(c) Experience as a credentialed school psychologist employed by a parochial or private school may, at the board's discretion, be deemed equivalent to experience as a credentialed school psychologist in the public schools.

~~(d) Persons meeting this requirement must verify this experience by written statements from their sponsors as specified in Section 4986.20 of the Code. These statements shall include information regarding the applicant's:~~

~~(1) Skill in the administration of standardized individual tests for subjects varying from three (3) to twenty one (21) years of age.~~

~~(2) Skill in the interpretation of results to parents, teachers, administrators, admissions committees, or other appropriate parties.~~

~~(3) Skill in the classification of subjects for special programming based on existing legislation.~~

~~(4) Recognition and diagnosis of learning problems with recommendations for solution of the problems.~~

~~(5) Recognition and amelioration of behavior problems.~~

~~(6) Interpretation of scores of standardized group tests.~~

~~(7) Skills in the use of psychological counseling or other therapeutic techniques with children and parents.~~

~~Authority cited: Section 4980.60 4990.20(a), Business and Professions Code. Reference: Section 4986.20 4989.30(e), Business and Professions Code.~~

§1857.

~~(a) An applicant who has completed a minimum of seven hundred and twenty (720) clock hours under professional supervision as specified herein in the following experiences shall be deemed to have suitable experience equivalent to one year of supervised professional experience in an accredited school psychology program, or under the direction of a licensed psychologist:~~

~~(1) Utilization of all instruments presented within the prescribed course of study in the educational institution attended, with a wide variety of subjects (generally inclusive of WAIS, WISC, Binet, and group tests).~~

~~(2) Administration of additional tests commonly employed in the field by school psychologists.~~

~~(3) Consulting with teachers concerning learning and behavior problems of children enrolled in special education programs.~~

~~(4) Referral to and use of community agencies.~~

~~(5) Oral and written communication of results in accordance with the local supervisor's requirements.~~

~~(b) The local supervisor shall consult with the intern at least once weekly during the period of internship and shall:~~

~~(1) Possess a valid credential in school psychology; and~~

~~(2) Have a minimum of two (2) years experience in the field of school psychology.~~

~~(c) The general supervisor shall arrange for and coordinate intern placement with the local supervisor, and shall consult with the intern and/or the local supervisor at least three times during the period of internship. A general supervisor shall be qualified as one of the following:~~

~~(1) A credentialed school psychologist;~~

~~(2) A licensed psychologist;~~

~~(3) A licensed educational psychologist;~~

~~(4) A state or accredited training institution designated supervisor of school psychology trainees.~~

~~Authority cited: Section 4980.60, Business and Professions Code. Reference: Section 4980.20, Business and Professions Code.~~

§1858.

The Board may suspend or revoke the license of a licensee who:

~~(a) Misrepresents the type or status of license held by the licensee.~~

~~(b) (a) Impersonates a licensee or who allows another person to use his or her license.~~

~~(c) Aids or abets an unlicensed person to engage in conduct requiring a license.~~

~~(d) Intentionally or recklessly causes physical or emotional harm to a client.~~

~~(e) Commits any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions or duties of a licensee.~~

~~(f) When employed by another person or agency, encourages, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.~~

~~(g) Misrepresents or permits the misrepresentation of his or her professional qualifications, affiliations, or purposes.~~

~~(h) Has sexual relations with a client, or who solicits sexual relations with a client, or who commits an act of sexual abuse, or who commits an act of sexual misconduct, or who commits an act punishable as a sexual related crime if such act or solicitation is substantially related to the qualifications, functions or duties of an educational psychologist.~~

~~(i) Performs or holds himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.~~

~~(j) (b) Permits a person under his or her supervision or control to perform or permits such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.~~

~~(k) Fails to maintain the confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client during the course of treatment and all information about the client which is obtained from tests or other such means.~~

~~(l) Prior to the commencement of treatment, fails to disclose to the client, or prospective client, the fee to be charged for the professional services, or the basis upon which such fee will be computed.~~

~~(m) Advertises in a manner which is false or misleading.~~

~~(n) Reproduces or describes in public or in publications subject to general public distribution, any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate such test or device. An Educational Psychologist shall limit access to such test or device to persons with professional interests who can be expected to safeguard their use.~~

~~(o) Fails to comply with the child abuse reporting requirements of Penal Code Section 11166.~~

~~(p) Fails to comply with the elder and adult dependent abuse reporting requirements of Welfare and Institutions Code Section 15630.~~

Authority cited: Section ~~4987~~ 4989.18, Business and Professions Code. Reference: Sections ~~730~~, ~~4986.70~~ 4989.80, ~~4986.71~~, and ~~4987~~ 4989.18, Business and Professions Code; and Section ~~11166~~, Penal Code, and Section ~~15630~~, Welfare and Institutions Code.

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AMENDED IN ASSEMBLY JUNE 19, 2006

AMENDED IN SENATE MAY 2, 2006

AMENDED IN SENATE APRIL 17, 2006

SENATE BILL

No. 1475

Introduced by Committee on Business, Professions and Economic Development (Senators Figueroa (Chair), Aanestad, Florez, Morrow, and Simitian)

February 23, 2006

An act to amend Sections 2533, 4104, 4162, 4180, 4181, 4182, 4190, 4191, 4192, 4546, ~~and 4548~~ of 4548, 4994, 4996.17, 4999, 4999.1, and 4999.4 of, to amend the heading of Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of, to add Chapter 13.5 (commencing with Section 4989.10) and Chapter 13.7 (commencing with Section 4990) to Division 2 of, to add Sections 4991 and 4991.2 to, to repeal Article 5 (commencing with Section 4986) of Chapter 13 and Article 1 (commencing with Section 4990) of Chapter 14 of Division 2 of, and to repeal Sections 4992.31, 4998.6, 4999.8, and 4999.9 of, the Business and Professions Code, relating to the healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1475, as amended, Committee on Business, Professions and Economic Development. Healing arts.

(1) *Existing law creates the Board of Behavioral Sciences and makes it responsible for the licensure and regulation of clinical social workers and educational psychologists. Under existing law, moneys received by the board are deposited into the Behavioral Sciences Fund and are continuously appropriated to the board, other than the*

revenue from fines and penalties. Existing law makes a violation of the provisions regulating these practitioners a crime.

This bill would recast the provisions creating the board. The bill would name provisions regulating social workers the Clinical Social Worker Practice Act and would modify licensure requirements with respect to experience gained outside this state. The bill would also establish the Educational Psychologist Practice Act that would continue the licensure and regulation of educational psychologists by the board. The bill would revise the provisions defining and regulating the practice of educational psychologists and would require licensees to complete continuing education as a prerequisite for licensure renewal. The bill would authorize the board to require those continuing education providers to pay fees to fund the administration of this requirement. Because the bill would direct their deposit into the Behavioral Sciences Fund, it would make an appropriation by increasing the amount of funds in a continuously appropriated fund. The bill would continue to make the violation of provisions regulating educational psychologists punishable as a crime and, because it would prohibit the commission of additional types of conduct, the bill would expand that crime and thereby impose a state-mandated local program.

(2) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and makes a violation of the act a crime.

Existing law requires every pharmacy to have written policies and procedures for detecting certain impairments or drug-related acts among licensees employed by or with the pharmacy.

This bill would instead require every pharmacy to have written policies and procedures for addressing those impairments or acts by those licensees.

Existing law requires an applicant for a wholesaler license to submit a surety bond or other security to the board, as specified.

This bill would exempt a government-owned and operated wholesaler from that requirement.

Under existing law, specified clinics, including surgical clinics, may purchase drugs at wholesale for administration or dispensing to the clinic's patients. Existing law requires these clinics to maintain certain records for at least 7 years for inspection and to obtain a license from the board. Existing law specifies that each license is to be issued to a specific clinic and for a specific location. Existing law requires those

clinics, when applying for a license, to show evidence that a professional director, as defined, is responsible for the provision of pharmacy services. Existing law also requires those clinics, other than surgical clinics, to retain a consulting pharmacist to perform specified tasks, including certifying in writing, at least twice a year, that the clinic is or is not operating in compliance with specified requirements, and requires the most recent certification to be submitted with the clinic's license renewal application.

This bill would instead require those clinics to maintain those records for at least 3 years and would require a separate license for each clinic location. The bill would expand the definition of "professional director" to include a dentist or podiatrist in certain circumstances. The bill would require a clinic to notify the board of any change of address, any change of the board of directors of a clinic's nonprofit corporation or, in the case of a surgical clinic, any proposed change in ownership, as specified, and any change in professional director. The bill would require surgical clinics also to retain a consulting pharmacist to perform those specified tasks. The bill would require a consulting pharmacist to provide the certification, with any recommended corrective actions, in writing quarterly and to keep the certification on file for 3 years. Because the bill would specify additional requirements under the Pharmacy Law, a violation of which would be a crime, it would impose a state-mandated local program. The bill would make other technical changes.

(2)

(3) Existing law, the Psychiatric Technicians Law, provides for the licensure and regulation of psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians, imposes specified fees in connection with the issuance of licenses by the board, and authorizes the board to fix certain of those fees within specified minimums and maximums. Existing law requires the board to pay all revenue received into the State Treasury for credit to the Vocational Nursing and Psychiatric Technicians Fund. Existing law prohibits the board from maintaining a reserve balance greater than 3 months of the appropriated operating expenditures of the board in any fiscal year.

This bill would delete that prohibition and reduce the minimum amount of certain fees fixed by the board.

(3)

(4) *Existing law provides for the registration of telephone medical advice services with the Telephone Medical Advice Services Bureau of*

the Department of Consumer Affairs, and prohibits a business entity from providing those services to a patient at a California address unless the person is registered. Under existing law, any business entity that submits proof of accreditation by certain specified health committees and organizations is deemed provisionally registered.

This bill would delete that provision and modify the application requirements for registration.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2533 of the Business and Professions
2 Code is amended to read:

3 2533. The board may refuse to issue, or issue subject to terms
4 and conditions, a license on the grounds specified in Section 480,
5 or may suspend, revoke, or impose terms and conditions upon the
6 license of any licensee if he or she has been guilty of
7 unprofessional conduct. Unprofessional conduct shall include,
8 but shall not be limited to, the following:

9 (a) Conviction of a crime substantially related to the
10 qualifications, functions, and duties of a speech-language
11 pathologist or audiologist, as the case may be. The record of the
12 conviction shall be conclusive evidence thereof.

13 (b) Securing a license by fraud or deceit.

14 (c) (1) The use or administering to himself or herself, of any
15 controlled substance; (2) the use of any of the dangerous drugs
16 specified in Section 4022, or of alcoholic beverages, to the
17 extent, or in a manner as to be dangerous or injurious to the
18 licensee, to any other person, or to the public, or to the extent that
19 the use impairs the ability of the licensee to practice
20 speech-language pathology of audiology safely; (3) more than
21 one misdemeanor or any felony involving the use, consumption,
22 or self-administration of any of the substances referred to in this

1 (\$20) and may be fixed by the board at an amount no more than
2 fifty dollars (\$50).

3 (k) The biennial fee to be paid upon the filing of an application
4 for renewal for a provider of an approved continuing education
5 course or a course to meet the certification requirements for
6 blood withdrawal shall be in an amount not less than one hundred
7 fifty dollars (\$150), and may be fixed by the board at an amount
8 no more than two hundred dollars (\$200).

9 *SEC. 12. Article 5 (commencing with Section 4986) of*
10 *Chapter 13 of Division 2 of the Business and Professions Code is*
11 *repealed.*

12 *SEC. 13. Chapter 13.5 (commencing with Section 4989.10) is*
13 *added to Division 2 of the Business and Professions Code, to*
14 *read:*

15
16 *CHAPTER 13.5. LICENSED EDUCATIONAL PSYCHOLOGISTS*

17
18 *Article 1. General*

19
20 *4989.10. This chapter shall be known, and may be cited as,*
21 *the Educational Psychologist Practice Act.*

22 *4989.12. The Board of Behavioral Sciences shall administer*
23 *and enforce the provisions of this chapter. For the purposes of*
24 *this chapter it shall be designated as the board.*

25 *4989.14. The practice of educational psychology is the*
26 *performance of any of the following professional functions*
27 *pertaining to academic learning processes or the educational*
28 *system or both:*

29 *(a) Educational evaluation.*

30 *(b) Diagnosis of psychological disorders related to academic*
31 *learning processes.*

32 *(c) Administration of diagnostic tests related to academic*
33 *learning processes including tests of academic ability, learning*
34 *patterns, achievement, motivation, and personality factors.*

35 *(d) Interpretation of diagnostic tests related to academic*
36 *learning processes including tests of academic ability, learning*
37 *patterns, achievement, motivation, and personality factors.*

38 *(e) Providing psychological counseling for individuals,*
39 *groups, and families.*

1 (f) Consultation with other educators and parents on issues of
2 social development and behavioral and academic difficulties.

3 (g) Conducting psychoeducational assessments for the
4 purposes of identifying special needs.

5 (h) Developing treatment programs and strategies to address
6 problems of adjustment.

7 (i) Coordinating intervention strategies for management of
8 individual crises.

9 4989.16. (a) A person appropriately credentialed by the
10 Commission on Teacher Credentialing may perform the functions
11 authorized by that credential in a public school without a license
12 issued under this chapter by the board.

13 (b) Nothing in this chapter shall be construed to constrict,
14 limit, or withdraw the Medical Practice Act (Chapter 5
15 (commencing with Section 2000)), the Nursing Practice Act
16 (Chapter 6 (commencing with Section 2700)), the Psychology
17 Licensing Law (Chapter 6.6 (commencing with Section 2900)),
18 the Marriage and Family Therapist Practice Act (Chapter 13
19 (commencing with Section 4980)), or the Clinical Social Worker
20 Practice Act (Chapter 14 (commencing with Section 4991)).

21 4989.18. The board may, by rules or regulations, adopt,
22 amend, or repeal rules of professional conduct appropriate to the
23 establishment and maintenance of a high standard of integrity
24 and dignity in the profession, provided those rules or regulations
25 are not inconsistent with Section 4989.54. Every person licensed
26 under this chapter shall be governed by those rules of
27 professional conduct.

28 Article 2. Licensure

29
30
31 4989.20. (a) The board may issue a license as an educational
32 psychologist if the applicant satisfies, with proof satisfactory to
33 the board, the following requirements:

34 (1) Possession of, at minimum, a master's degree in
35 psychology, educational psychology, school psychology, or
36 counseling and guidance. This degree shall be obtained from an
37 educational institution approved by the board according to the
38 regulations adopted under this chapter.

39 (2) Attainment of 18 years of age.

1 (3) *No commission of an act or crime constituting grounds for*
2 *denial of licensure under Section 480.*

3 (4) *Successful completion of 60 semester hours of*
4 *postgraduate work in pupil personnel services.*

5 (5) *Completion of three years of full-time experience as a*
6 *credentialed school psychologist in the public schools. At least*
7 *one year of the experience required by this paragraph shall be*
8 *supervised professional experience in an accredited school*
9 *psychology program or obtained under the direction of a*
10 *licensed psychologist or a licensed educational psychologist. The*
11 *applicant shall not be credited with experience obtained more*
12 *than six years prior to filing the application for licensure.*

13 (6) *Passage of an examination specified by the board.*

14 4989.22. (a) *Only persons who satisfy the requirements of*
15 *Section 4989.20 are eligible to take the licensure examination.*

16 (b) *An applicant who fails the written examination may, within*
17 *one year from the notification date of failure, retake the*
18 *examination as regularly scheduled without further application.*
19 *Thereafter, the applicant shall not be eligible for further*
20 *examination until he or she files a new application, meets all*
21 *current requirements, and pays all fees required.*

22 (c) *Notwithstanding any other provision of law, the board may*
23 *destroy all examination materials two years after the date of an*
24 *examination.*

25 4989.24. *The board shall not issue a license to a person who*
26 *has been convicted of a crime in this or any other state or in a*
27 *territory of the United States that involves sexual abuse of*
28 *children or who is required to register pursuant to Section 290 of*
29 *the Penal Code or the equivalent in another state or territory.*

30 4989.26. *The board may refuse to issue a license to an*
31 *applicant if it appears he or she may be unable to practice safely*
32 *due to mental illness or chemical dependency. The procedures*
33 *set forth in Article 12.5 (commencing with Section 820) of*
34 *Chapter 1 shall apply to a denial of a license pursuant to this*
35 *section.*

36 4989.28. *The board may deny an application for licensure if*
37 *the applicant is or has been guilty of unprofessional conduct as*
38 *described in Section 4989.54.*

1 Article 3. *Renewal and Continuing Education*

2
3 4989.30. *A license issued under this chapter shall expire no*
4 *later than 24 months after its date of issue.*

5 4989.32. *To renew an unexpired license, the licensee shall,*
6 *on or before the expiration date of the license, take all of the*
7 *following actions:*

8 (a) *Apply for renewal on a form prescribed by the board.*

9 (b) *Pay a renewal fee prescribed by the board.*

10 (c) *Inform the board of whether he or she has been convicted,*
11 *as defined in Section 490, of any misdemeanor or felony and*
12 *whether any disciplinary action has been taken by a regulatory*
13 *or licensing board in this or any other state after the prior*
14 *issuance or renewal of his or her license.*

15 (d) *Complete the continuing education requirements described*
16 *in Section 4989.34.*

17 4989.34. (a) *To renew his or her license, a licensee shall*
18 *certify to the board, on a form prescribed by the board,*
19 *completion in the preceding two years of not less than 60 hours*
20 *of approved continuing education in, or relevant to, educational*
21 *psychology.*

22 (b) *Notwithstanding subdivision (a), a licensee who possesses*
23 *a current general pupil personnel services credential issued on*
24 *or after July 1, 1994, shall be exempt from the continuing*
25 *education requirement.*

26 (c) (1) *The continuing education shall be obtained from either*
27 *an accredited university or a continuing education provider*
28 *approved by the board.*

29 (2) *The board shall establish, by regulation, a procedure for*
30 *approving providers of continuing education courses, and all*
31 *providers of continuing education shall comply with procedures*
32 *established by the board. The board may revoke or deny the right*
33 *of a provider to offer continuing education coursework pursuant*
34 *to this section for failure to comply with the requirements of this*
35 *section or any regulation adopted pursuant to this section.*

36 (d) *Training, education, and coursework by approved*
37 *providers shall incorporate one or more of the following:*

38 (1) *Aspects of the discipline that are fundamental to the*
39 *understanding or the practice of educational psychology.*

1 (2) *Aspects of the discipline of educational psychology in*
2 *which significant recent developments have occurred.*

3 (3) *Aspects of other disciplines that enhance the*
4 *understanding or the practice of educational psychology.*

5 (e) *The board may audit the records of a licensee to verify*
6 *completion of the continuing education requirement. A licensee*
7 *shall maintain records of the completion of required continuing*
8 *education coursework for a minimum of two years and shall*
9 *make these records available to the board for auditing purposes*
10 *upon its request.*

11 (f) *The board may establish exceptions from the continuing*
12 *education requirements of this section for good cause, as*
13 *determined by the board.*

14 (g) *The board shall, by regulation, fund the administration of*
15 *this section through continuing education provider fees to be*
16 *deposited in the Behavioral Sciences Fund. The amount of the*
17 *fees shall be sufficient to meet, but shall not exceed, the costs of*
18 *administering this section.*

19 (h) *The continuing education requirements of this section shall*
20 *comply fully with the guidelines for mandatory continuing*
21 *education established by the Department of Consumer Affairs*
22 *pursuant to Section 166.*

23 4989.36. *A licensee may renew a license that has expired at*
24 *any time within five years after its expiration date by taking all of*
25 *the actions described in Section 4989.32.*

26 4989.38. *A suspended license is subject to expiration as*
27 *provided in this article and may be renewed, following the period*
28 *of suspension, if the licensee takes all of the actions described in*
29 *Section 4989.32.*

30 4989.40. *A revoked license is subject to expiration as*
31 *provided in this article and shall not be renewed. The applicant*
32 *may apply to the board for reinstatement of his or her license*
33 *and shall pay a reinstatement fee in an amount equal to the*
34 *renewal fee in effect at that time and any delinquency fees that*
35 *may have accrued and comply with other requirements of the*
36 *board for reinstatement.*

37 4989.42. *A license that is not renewed within five years after*
38 *its expiration may not be renewed, restored, reinstated, or*
39 *reissued thereafter. A licensee may apply for a new license if he*
40 *or she satisfies all of the following requirements:*

1 (a) No fact, circumstance, or condition exists that, if the
2 license were issued, would constitute grounds for its revocation
3 or suspension.

4 (b) Payment of the fees that would be required if he or she
5 were applying for a license for the first time.

6 (c) Passage of the current licensure examination.

7 4989.44. (a) A licensee may apply to the board to request
8 that his or her license be placed on inactive status.

9 (b) A licensee on inactive status shall be subject to this
10 chapter and shall not engage in the practice of educational
11 psychology in this state.

12 (c) A licensee who holds an inactive license shall pay a
13 biennial fee of one-half of the amount of the standard renewal
14 fee.

15 (d) A licensee on inactive status who has not committed an act
16 or crime constituting grounds for denial of licensure may, upon
17 request, restore his or her license to practice educational
18 psychology to active status. A licensee requesting that his or her
19 license be placed on active status between renewal cycles shall
20 pay the remaining one-half of his or her renewal fee. A licensee
21 requesting to restore his or her license to active status, whose
22 license will expire less than one year from the date of the request,
23 shall complete 30 hours of continuing education as specified in
24 Section 4989.34. A licensee requesting to restore his or her
25 license to active status, whose license will expire more than one
26 year from the date of the request, shall complete 60 hours of
27 continuing education as specified in Section 4989.34.

28 29 Article 4. Regulation 30

31 4989.46. A licensee shall give written notice to the board of a
32 name change within 30 days after each change, providing both
33 the old and new names. A copy of the legal document authorizing
34 the name change, such as a court order or marriage certificate,
35 shall be submitted with the notice.

36 4989.48. A licensee shall display his or her license in a
37 conspicuous place in the licensee's primary place of practice.

38 4989.50. Except as authorized by this chapter, it is unlawful
39 for any person to practice educational psychology or use any
40 title or letters that imply that he or she is a licensed educational

1 *psychologist unless, at the time of so doing, he or she holds a*
2 *valid, unexpired, and unrevoked license issued under this*
3 *chapter.*

4 *4989.52. All consideration, compensation, or remuneration*
5 *received by the licensee shall be in relation to professional*
6 *counseling services actually provided by the licensee. Nothing in*
7 *this section shall prevent collaboration among two or more*
8 *licensees in a case. However, no fee shall be charged for that*
9 *collaboration, except when disclosure of the fee has been made*
10 *to the client.*

11
12 *Article 5. Enforcement*
13

14 *4989.54. The board may deny a license or may suspend or*
15 *revoke the license of a licensee if he or she has been guilty of*
16 *unprofessional conduct. Unprofessional conduct includes, but is*
17 *not limited to, the following:*

18 *(a) Conviction of a crime substantially related to the*
19 *qualifications, functions and duties of an educational*
20 *psychologist.*

21 *(1) The record of conviction shall be conclusive evidence only*
22 *of the fact that the conviction occurred.*

23 *(2) The board may inquire into the circumstances surrounding*
24 *the commission of the crime in order to fix the degree of*
25 *discipline or to determine if the conviction is substantially*
26 *related to the qualifications, functions, or duties of a licensee*
27 *under this chapter.*

28 *(3) A plea or verdict of guilty or a conviction following a plea*
29 *of nolo contendere made to a charge substantially related to the*
30 *qualifications, functions, or duties of a licensee under this*
31 *chapter shall be deemed to be a conviction within the meaning of*
32 *this section.*

33 *(4) The board may order a license suspended or revoked, or*
34 *may decline to issue a license when the time for appeal has*
35 *elapsed, or the judgment of conviction has been affirmed on*
36 *appeal, or when an order granting probation is made suspending*
37 *the imposition of sentence, irrespective of a subsequent order*
38 *under Section 1203.4 of the Penal Code allowing the person to*
39 *withdraw a plea of guilty and enter a plea of not guilty or setting*

1 *aside the verdict of guilty or dismissing the accusation,*
2 *information, or indictment.*

3 *(b) Securing a license by fraud, deceit, or misrepresentation*
4 *on an application for licensure submitted to the board, whether*
5 *engaged in by an applicant for a license or by a licensee in*
6 *support of an application for licensure.*

7 *(c) Administering to himself or herself a controlled substance*
8 *or using any of the dangerous drugs specified in Section 4022 or*
9 *an alcoholic beverage to the extent, or in a manner, as to be*
10 *dangerous or injurious to himself or herself or to any other*
11 *person or to the public or to the extent that the use impairs his or*
12 *her ability to safely perform the functions authorized by the*
13 *license.*

14 *(d) Conviction of more than one misdemeanor or any felony*
15 *involving the use, consumption, or self-administration of any of*
16 *the substances referred to in subdivision (c) or any combination*
17 *thereof.*

18 *(e) Advertising in a manner that is false, misleading, or*
19 *deceptive.*

20 *(f) Violating, attempting to violate, or conspiring to violate*
21 *any of the provisions of this chapter or any regulation adopted by*
22 *the board.*

23 *(g) Commission of any dishonest, corrupt, or fraudulent act*
24 *substantially related to the qualifications, functions, or duties of*
25 *a licensee.*

26 *(h) Denial of licensure, revocation, suspension, restriction, or*
27 *any other disciplinary action imposed by another state or*
28 *territory or possession of the United States or by any other*
29 *governmental agency, on a license, certificate, or registration to*
30 *practice educational psychology or any other healing art. A*
31 *certified copy of the disciplinary action, decision, or judgment*
32 *shall be conclusive evidence of that action.*

33 *(i) Revocation, suspension, or restriction by the board of a*
34 *license, certificate, or registration to practice as a clinical social*
35 *worker or marriage and family therapist.*

36 *(j) Failure to keep records consistent with sound clinical*
37 *judgment, the standards of the profession, and the nature of the*
38 *services being rendered.*

39 *(k) Gross negligence or incompetence in the practice of*
40 *educational psychology.*

1 *(l) Misrepresentation as to the type or status of a license held*
2 *by the licensee or otherwise misrepresenting or permitting*
3 *misrepresentation of his or her education, professional*
4 *qualifications, or professional affiliations to any person or entity.*

5 *(m) Intentionally or recklessly causing physical or emotional*
6 *harm to any client.*

7 *(n) Engaging in sexual relations with a client or a former*
8 *client within two years following termination of professional*
9 *services, soliciting sexual relations with a client, or committing*
10 *an act of sexual abuse or sexual misconduct with a client or*
11 *committing an act punishable as a sexually related crime, if that*
12 *act or solicitation is substantially related to the qualifications,*
13 *functions, or duties of a licensed educational psychologist.*

14 *(o) Prior to the commencement of treatment, failing to disclose*
15 *to the client or prospective client the fee to be charged for the*
16 *professional services or the basis upon which that fee will be*
17 *computed.*

18 *(p) Paying, accepting, or soliciting any consideration,*
19 *compensation, or remuneration, whether monetary or otherwise,*
20 *for the referral of professional clients.*

21 *(q) Failing to maintain confidentiality, except as otherwise*
22 *required or permitted by law, of all information that has been*
23 *received from a client in confidence during the course of*
24 *treatment and all information about the client that is obtained*
25 *from tests or other means.*

26 *(r) Performing, holding himself or herself out as being able to*
27 *perform, or offering to perform any professional services beyond*
28 *the scope of the license authorized by this chapter or beyond his*
29 *or her field or fields of competence as established by his or her*
30 *education, training, or experience.*

31 *(s) Reproducing or describing in public, or in any publication*
32 *subject to general public distribution, any psychological test or*
33 *other assessment device the value of which depends in whole or*
34 *in part on the naivete of the subject in ways that might invalidate*
35 *the test or device. An educational psychologist shall limit access*
36 *to the test or device to persons with professional interests who*
37 *can be expected to safeguard its use.*

38 *(t) Aiding or abetting an unlicensed person to engage in*
39 *conduct requiring a license under this chapter.*

1 (u) When employed by another person or agency,
2 encouraging, either orally or in writing, the employer's or
3 agency's clientele to utilize his or her private practice for further
4 counseling without the approval of the employing agency or
5 administration.

6 (v) Failing to comply with the child abuse reporting
7 requirements of Section 11166 of the Penal Code.

8 (w) Failing to comply with the elder and adult dependent
9 abuse reporting requirements Section 15630 of the Welfare and
10 Institutions Code.

11 4989.56. The board shall revoke the license of a licensee,
12 other than one who is also licensed as a physician and surgeon,
13 who uses or offers to use drugs in the course of his or her
14 practice as an educational psychologist.

15 4989.58. The board shall revoke the license of a licensee
16 upon a decision that contains a finding of fact that the licensee
17 engaged in an act of sexual contact, as defined in Section 729,
18 when that act is with a client, or with a former client and the
19 relationship was terminated primarily because of engaging in
20 that act. The revocation shall not be stayed by the administrative
21 law judge or the board.

22 4989.60. A person whose license has been suspended or
23 revoked shall not, until the reinstatement of his or her license,
24 engage in any activity to which the license relates or any other
25 activity or conduct in violation of the order or judgment by which
26 the license was suspended.

27 4989.62. All proceedings by the board to suspend, revoke, or
28 to take other disciplinary action against a licensee shall be
29 conducted pursuant to Chapter 5 (commencing with Section
30 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

31 4989.64. In addition to other proceedings provided for in this
32 chapter, whenever a person has engaged, or is about to engage,
33 in an act or practice that constitutes, or will constitute, an
34 offense against this chapter, the superior court in and for the
35 county where the act or practice takes place, or is about to take
36 place, may issue an injunction, or other appropriate order,
37 restraining that conduct on application of the board, the Attorney
38 General, or the district attorney of the county. The proceedings
39 under this section shall be governed by Chapter 3 (commencing

1 with Section 525) of Title 7 of Part 2 of the Code of Civil
2 Procedure.

3 4989.66. A person who violates any of the provisions of this
4 chapter is guilty of a misdemeanor.

5
6 Article 6. Revenue
7

8 4989.68. (a) The board shall assess the following fees
9 relating to the licensure of educational psychologists:

10 (1) The application fee for initial licensure shall be a
11 maximum amount of one hundred dollars (\$100).

12 (2) The fee for issuance of the initial license shall be a
13 maximum amount of one hundred fifty dollars (\$150).

14 (3) The fee for license renewal shall be a maximum amount of
15 one hundred fifty dollars (\$150).

16 (4) The delinquency fee shall be a maximum amount of
17 seventy-five dollars (\$75). A person who permits his or her
18 license to become delinquent may have it restored only upon
19 payment of all the fees that he or she would have paid if the
20 license had not become delinquent, plus the payment of any and
21 all delinquency fees.

22 (5) The written examination fee shall be a maximum amount of
23 one hundred dollars (\$100). An applicant who fails to appear for
24 an examination, once having been scheduled, shall forfeit any
25 examination fees he or she paid.

26 (6) The fee for rescoring a written examination shall be twenty
27 dollars (\$20).

28 (7) The fee for issuance of a replacement registration, license,
29 or certificate shall be twenty dollars (\$20).

30 (8) The fee for issuance of a certificate or letter of good
31 standing shall be twenty-five dollars (\$25).

32 (b) With regard to all license, examination, and other fees, the
33 board shall establish fee amounts at or below the maximum
34 amounts specified in this chapter.

35 4989.70. The board shall report each month to the
36 Controller, the amount and source of all revenue received
37 pursuant to this chapter and at the same time pay the entire
38 amount thereof into the State Treasury for credit to the
39 Behavioral Sciences Fund.
40

1 *SEC. 14. Chapter 13.7 (commencing with Section 4990) is*
2 *added to Division 2 of the Business and Professions Code, to*
3 *read:*

4
5 *CHAPTER 13.7. BOARD OF BEHAVIORAL SCIENCES*

6
7 *Article 1. Administration*

8
9 4990. (a) *There is in the Department of Consumer Affairs, a*
10 *Board of Behavioral Sciences that consists of 11 members*
11 *composed as follows:*

12 (1) *Two state-licensed clinical social workers.*

13 (2) *One state-licensed educational psychologist.*

14 (3) *Two state-licensed marriage and family therapists.*

15 (4) *Six public members.*

16 (b) *Each member, except the six public members, shall have at*
17 *least two years of experience in his or her profession.*

18 (c) *Each member shall reside in the State of California.*

19 (d) *The Governor shall appoint four of the public members*
20 *and the five licensed members with the advice and consent of the*
21 *Senate. The Senate Committee on Rules and the Speaker of the*
22 *Assembly shall each appoint a public member.*

23 (e) *Each member of the board shall be appointed for a term of*
24 *four years. A member appointed by the Speaker of the Assembly*
25 *or the Senate Committee on Rules shall hold office until the*
26 *appointment and qualification of his or her successor or until*
27 *one year from the expiration date of the term for which he or she*
28 *was appointed, whichever first occurs. Pursuant to Section 1774*
29 *of the Government Code, a member appointed by the Governor*
30 *shall hold office until the appointment and qualification of his or*
31 *her successor or until 60 days from the expiration date of the*
32 *term for which he or she was appointed, whichever first occurs.*

33 (f) *A vacancy on the board shall be filled by appointment for*
34 *the unexpired term by the authority who appointed the member*
35 *whose membership was vacated.*

36 (g) *Not later than the first of June of each calendar year, the*
37 *board shall elect a chairperson and a vice chairperson from its*
38 *membership.*

39 (h) *Each member of the board shall receive a per diem and*
40 *reimbursement of expenses as provided in Section 103.*

1 (i) *This section shall become inoperative on July 1, 2008, and,*
2 *as of January 1, 2009, is repealed, unless a later enacted statute,*
3 *that is enacted before January 1, 2009, deletes or extends the*
4 *dates on which it becomes inoperative and is repealed.*

5 4990.02. “Board,” as used in this chapter, Chapter 13
6 (commencing with Section 4980), Chapter 13.5 (commencing
7 with Section 4989.10), and Chapter 14 (commencing with
8 Section 4991) means the Board of Behavioral Sciences.

9 4990.04. (a) *The board shall appoint an executive officer.*
10 *This position is designated as a confidential position and is*
11 *exempt from civil service under subdivision (e) of Section 4 of*
12 *Article VII of the California Constitution.*

13 (b) *The executive officer serves at the pleasure of the board.*

14 (c) *The executive officer shall exercise the powers and*
15 *perform the duties delegated by the board and vested in him or*
16 *her by this chapter.*

17 (d) *With the approval of the director, the board shall fix the*
18 *salary of the executive officer.*

19 (e) *The chairperson and executive officer may call meetings of*
20 *the board and any duly appointed committee at a specified time*
21 *and place. For purposes of this section, “call meetings” means*
22 *setting the agenda, time, date, or place for any meeting of the*
23 *board or any committee.*

24 (f) *This section shall become inoperative on July 1, 2008, and,*
25 *as of January 1, 2009, is repealed, unless a later enacted statute,*
26 *that is enacted before January 1, 2009, deletes or extends the*
27 *dates on which it becomes inoperative and is repealed.*

28 4990.06. *Subject to the State Civil Service Act (Part 2*
29 *commencing with Section 18500) of Division 5 of Title 2 of the*
30 *Government Code) and except as provided by Sections 155, 156,*
31 *and 159.5, the board may employ any clerical, technical, and*
32 *other personnel as it deems necessary to carry out the provisions*
33 *of this chapter and the other chapters it administers and*
34 *enforces, within budget limitations.*

35 4990.08. *The board shall keep an accurate record of all of its*
36 *proceedings and a record of all applicants for licensure and all*
37 *individuals to whom it has issued a license.*

38 4990.10. *The board may conduct research in, and make*
39 *studies of problems involved in, the maintaining of professional*

1 standards among those engaged in the professions it licenses and
2 may publish its recommendations thereon.

3 4990.12. The duty of administering and enforcing this
4 chapter, Chapter 13 (commencing with Section 4980), Chapter
5 13.5 (commencing with Section 4989.10.), and Chapter 14
6 (commencing with Section 4991) is vested in the board and the
7 executive officer subject to, and under the direction of, the board.
8 In the performance of this duty, the board and the executive
9 officer have all the powers and are subject to all the
10 responsibilities vested in, and imposed upon, the head of a
11 department by Chapter 2 (commencing with Section 11150) of
12 Part 1 of Division 3 of Title 2 of the Government Code.

13 4990.14. The board shall have and use a seal bearing the
14 words "The Board of Behavioral Sciences," and shall otherwise
15 conform to Section 107.5.

16 4990.16. Protection of the public shall be the highest priority
17 for the board in exercising its licensing, regulatory, and
18 disciplinary functions. Whenever the protection of the public is
19 inconsistent with other interests sought to be promoted, the
20 protection of the public shall be paramount.

21 4990.18. It is the intent of the Legislature that the board
22 employ its resources for each and all of the following functions:

23 (a) The licensure of marriage and family therapists, clinical
24 social workers, and educational psychologists.

25 (b) The development and administration of licensure
26 examinations and examination procedures consistent with
27 prevailing standards for the validation and use of licensing and
28 certification tests. Examinations shall measure knowledge and
29 abilities demonstrably important to the safe, effective practice of
30 the profession.

31 (c) Enforcement of laws designed to protect the public from
32 incompetent, unethical, or unprofessional practitioners.

33 (d) Consumer education.

34 4990.20. (a) The board may adopt rules and regulations as
35 necessary to administer and enforce the provisions of this
36 chapter and the other chapters it administers and enforces. The
37 adoption, amendment, or repeal of those rules and regulations
38 shall be made in accordance with Chapter 3.5 (commencing with
39 Section 11340) of Part 1 of Division 3 of Title 2 of the
40 Government Code.

1 ***(b) The board may formulate and enforce rules and***
2 ***regulations requiring the following.***

3 ***(1) That the articles of incorporation or bylaws of a marriage***
4 ***and family therapist or licensed clinical social worker***
5 ***corporation include a provision whereby the capital stock of that***
6 ***corporation owned by a disqualified person, as defined in the***
7 ***Moscone-Knox Professional Corporation Act (Part 4***
8 ***(commencing with Section 13400) of Division 3 of Title 1 of the***
9 ***Corporations Code), or a deceased person shall be sold to the***
10 ***corporation or to the remaining shareholders of that corporation***
11 ***within the time that the rules and regulations may provide.***

12 ***(2) That a marriage and family therapist corporation or a***
13 ***licensed clinical social worker corporation shall provide***
14 ***adequate security by insurance or otherwise for claims against it***
15 ***by its patients arising out of the rendering of professional***
16 ***services.***

17 4990.22. ***(a) Notwithstanding Section 13340 of the***
18 ***Government Code, and except as provided in Section 207, the***
19 ***funds in the Behavioral Sciences Fund are continuously***
20 ***appropriated, without regard to fiscal years, to the board for***
21 ***carrying out and enforcing the provisions of this chapter and the***
22 ***other chapters it administers and enforces.***

23 ***(b) The board shall keep records that reasonably ensure that***
24 ***funds expended in the administration of each licensure or***
25 ***registration category shall bear a reasonable relation to the***
26 ***revenue derived from each category and report to the department***
27 ***no later than May 31 of each year on those expenditures.***

28 ***(c) Surpluses, if any, may be used by the board in a manner***
29 ***that bears a reasonable relation to the revenue derived from***
30 ***each licensure or registration category and may include, but not***
31 ***be limited to, expenditures for education and research related to***
32 ***each of the licensing or registration categories.***

33 4990.24. ***The powers and duties of the board, as set forth in***
34 ***this chapter, shall be subject to the review required by Division***
35 ***1.2 (commencing with Section 473).***

36 4990.26. ***Wherever “Board of Behavioral Science***
37 ***Examiners,” “Board of Social Work Examiners of the State of***
38 ***California,” or “Social Worker and Marriage Counselor***
39 ***Qualifications Board of the State of California” is used in any***

1 *law or regulations of this state, it shall mean the Board of*
2 *Behavioral Sciences.*

3
4 *Article 2. Disciplinary Actions*
5

6 *4990.28. The board may refuse to issue a registration or*
7 *license under the chapters it administers and enforces whenever*
8 *it appears that the applicant may be unable to practice his or her*
9 *profession safely due to mental illness or chemical dependency.*
10 *The procedures set forth in Article 12.5 (commencing with*
11 *Section 820) of Chapter 1 shall apply to denial of a license or*
12 *registration pursuant to this section.*

13 *4990.30. (a) A licensed marriage and family therapist,*
14 *marriage and family therapist intern, licensed clinical social*
15 *worker, associate clinical social worker, or licensed educational*
16 *psychologist whose license or registration has been revoked,*
17 *suspended, or placed on probation, may petition the board for*
18 *reinstatement or modification of the penalty, including*
19 *modification or termination of probation. The petition shall be on*
20 *a form provided by the board and shall state any facts and*
21 *information as may be required by the board including, but not*
22 *limited to, proof of compliance with the terms and conditions of*
23 *the underlying disciplinary order. The petition shall be verified*
24 *by the petitioner who shall file an original and sufficient copies*
25 *of the petition, together with any supporting documents, for the*
26 *members of the board, the administrative law judge, and the*
27 *Attorney General. The board may delegate to its executive officer*
28 *authority to order investigation of the contents of the petition.*

29 *(b) The licensee or registrant may file the petition on or after*
30 *the expiration of the following timeframes, each of which*
31 *commences on the effective date of the decision ordering the*
32 *disciplinary action or, if the order of the board, or any portion of*
33 *it, is stayed by the board itself or by the superior court, from the*
34 *date the disciplinary action is actually implemented in its*
35 *entirety:*

36 *(1) Three years for reinstatement of a license or registration*
37 *that was revoked for unprofessional conduct, except that the*
38 *board may, in its sole discretion, specify in its revocation order*
39 *that a petition for reinstatement may be filed after two years.*

1 (2) *Two years for early termination of any probation period of*
2 *three years or more.*

3 (3) *One year for modification of a condition, reinstatement of*
4 *a license or registration revoked for mental or physical illness,*
5 *or termination of probation of less than three years.*

6 (c) *The petition may be heard by the board itself or the board*
7 *may assign the petition to an administrative law judge pursuant*
8 *to Section 11512 of the Government Code.*

9 (d) *The board shall give notice to the Attorney General of the*
10 *filing of the petition.*

11 (e) *The petitioner may request that the board schedule the*
12 *hearing on the petition for a board meeting at a specific city*
13 *where the board regularly meets.*

14 (f) *The petitioner and the Attorney General shall be given*
15 *timely notice by letter of the time and place of the hearing on the*
16 *petition and an opportunity to present both oral and*
17 *documentary evidence and argument to the board or the*
18 *administrative law judge.*

19 (g) *The petitioner shall at all times have the burden of*
20 *production and proof to establish by clear and convincing*
21 *evidence that he or she is entitled to the relief sought in the*
22 *petition.*

23 (h) *The board, when it is hearing the petition itself, or an*
24 *administrative law judge sitting for the board, may consider all*
25 *activities of the petitioner since the disciplinary action was taken,*
26 *the offense for which the petitioner was disciplined, the*
27 *petitioner's activities during the time his or her license or*
28 *registration was in good standing, and the petitioner's*
29 *rehabilitative efforts, general reputation for truth, and*
30 *professional ability.*

31 (i) *The hearing may be continued from time to time as the*
32 *board or the administrative law judge deems appropriate but in*
33 *no case may the hearing on the petition be delayed more than*
34 *180 days from its filing without the consent of the petitioner.*

35 (j) *The board itself, or the administrative law judge if one is*
36 *designated by the board, shall hear the petition and shall prepare*
37 *a written decision setting forth the reasons supporting the*
38 *decision. In a decision granting a petition reinstating a license or*
39 *modifying a penalty, the board itself, or the administrative law*
40 *judge, may impose any terms and conditions that the agency*

1 *deems reasonably appropriate, including those set forth in*
2 *Sections 823 and 4990.40. If a petition is heard by an*
3 *administrative law judge sitting alone, the administrative law*
4 *judge shall prepare a proposed decision and submit it to the*
5 *board. The board may take action with respect to the proposed*
6 *decision and petition as it deems appropriate.*

7 *(k) The petitioner shall pay a fingerprinting fee and provide a*
8 *current set of his or her fingerprints to the board. The petitioner*
9 *shall execute a form authorizing release to the board or its*
10 *designee, of all information concerning the petitioner's current*
11 *physical and mental condition. Information provided to the board*
12 *pursuant to the release shall be confidential and shall not be*
13 *subject to discovery or subpoena in any other proceeding, and*
14 *shall not be admissible in any action, other than before the*
15 *board, to determine the petitioner's fitness to practice as*
16 *required by Section 822.*

17 *(l) The board may delegate to its executive officer authority to*
18 *order investigation of the contents of the petition.*

19 *(m) The petitioner may request that the board schedule the*
20 *hearing on the petition for a board meeting at a specific city*
21 *where the board regularly meets.*

22 *(n) No petition shall be considered while the petitioner is*
23 *under sentence for any criminal offense, including any period*
24 *during which the petitioner is on court-imposed probation or*
25 *parole or the petitioner is required to register pursuant to*
26 *Section 290 of the Penal Code. No petition shall be considered*
27 *while there is an accusation or petition to revoke probation*
28 *pending against the petitioner.*

29 *(o) Except in those cases where the petitioner has been*
30 *disciplined for violation of Section 822, the board may in its*
31 *discretion deny without hearing or argument any petition that is*
32 *filed pursuant to this section within a period of two years from*
33 *the effective date of a prior decision following a hearing under*
34 *this section.*

35 *4990.32. The proceedings conducted under this article shall*
36 *be held in accordance with Chapter 5 (commencing with Section*
37 *11500) of Part 1 of Division 3 of Title 2 of the Government Code.*

38 *4990.34. (a) Except as otherwise provided in this section, an*
39 *accusation filed pursuant to Section 11503 of the Government*
40 *Code against a licensee or registrant under the chapters the*

1 *board administers and enforces shall be filed within three years*
2 *from the date the board discovers the alleged act or omission*
3 *that is the basis for disciplinary action or within seven years*
4 *from the date the alleged act or omission that is the basis for*
5 *disciplinary action occurred, whichever occurs first.*

6 *(b) An accusation filed against a licensee alleging the*
7 *procurement of a license by fraud or misrepresentation is not*
8 *subject to the limitations set forth in subdivision (a).*

9 *(c) The limitations period provided by subdivision (a) shall be*
10 *tolled for the length of time required to obtain compliance when*
11 *a report required to be filed by the licensee or registrant with the*
12 *board pursuant to Article 11 (commencing with Section 800) of*
13 *Chapter 1 is not filed in a timely fashion.*

14 *(d) An accusation alleging sexual misconduct shall be filed*
15 *within three years after the board discovers the act or omission*
16 *alleged as the grounds for disciplinary action or within 10 years*
17 *after the act or omission alleged as the grounds for disciplinary*
18 *action occurred, whichever occurs first. This subdivision shall*
19 *apply to a complaint alleging sexual misconduct received by the*
20 *board on and after January 1, 2002.*

21 *(e) If an alleged act or omission involves a minor, the*
22 *seven-year limitations period provided for by subdivision (a) and*
23 *the 10-year limitations period provided for by subdivision (d)*
24 *shall be tolled until the minor reaches the age of majority.*

25 *(f) The limitations period provided by subdivision (a) shall be*
26 *tolled during any period if material evidence necessary for*
27 *prosecuting or determining whether a disciplinary action would*
28 *be appropriate is unavailable to the board due to an ongoing*
29 *criminal investigation.*

30 *(g) For purposes of this section, “discovers” means the latest*
31 *of the occurrence of any of the following with respect to each act*
32 *or omission alleged as the basis for disciplinary action:*

33 *(1) The date the board received a complaint or report*
34 *describing the act or omission.*

35 *(2) The date, subsequent to the original complaint or report,*
36 *on which the board became aware of any additional acts or*
37 *omissions alleged as the basis for disciplinary action against the*
38 *same individual.*

1 (3) *The date the board receives from the complainant a written*
2 *release of information pertaining to the complainant's diagnosis*
3 *and treatment.*

4 4990.36. (a) *The board may place a license or registration*
5 *issued under the chapters it administers and enforces on*
6 *probation under the following circumstances:*

7 (1) *In lieu of, or in addition to, any order of the board*
8 *suspending or revoking the license or registration.*

9 (2) *Upon the issuance of a license or registration to an*
10 *individual who has been guilty of unprofessional conduct but*
11 *who otherwise completed all education, training, and experience*
12 *required for licensure or registration.*

13 (3) *As a condition upon the reissuance or reinstatement of a*
14 *license or registration that has been suspended or revoked by the*
15 *board.*

16 (b) *The board may adopt regulations establishing a*
17 *monitoring program to ensure compliance with any terms or*
18 *conditions of probation imposed by the board pursuant to*
19 *subdivision (a). The cost of probation or monitoring may be*
20 *ordered to be paid by the licensee or registrant.*

21 4990.38. *The board, in its discretion, may require a licensee*
22 *or registrant whose license or registration has been placed on*
23 *probation or whose license or registration has been suspended,*
24 *to obtain additional professional training and to pass an*
25 *examination upon completion of that training and to pay any*
26 *necessary examination fee. The examination may be written,*
27 *oral, or a practical or clinical examination.*

28 4990.40. *The board may deny an application or may suspend*
29 *or revoke a license or registration issued under the chapters it*
30 *administers and enforces for any disciplinary action imposed by*
31 *another state or territory or possession of the United States, or*
32 *by a governmental agency. The disciplinary action, which may*
33 *include denial of licensure or revocation or suspension of the*
34 *license or imposition of restrictions on it, constitutes*
35 *unprofessional conduct. A certified copy of the disciplinary*
36 *action decision or judgment shall be conclusive evidence of that*
37 *action.*

38 4990.42. *The board shall revoke a license or registration*
39 *issued under the chapters it administers and enforces upon a*
40 *decision made in accordance with the procedures set forth in*

Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains a finding of fact that the licensee or registrant engaged in an act of sexual contact, as defined in Section 729, when that act is with a patient or with a former patient when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

4990.44. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 15. Article 1 (commencing with Section 4990) of Chapter 14 of Division 2 of the Business and Professions Code is repealed.

SEC. 16. Section 4991 is added to the Business and Professions Code, to read:

4991. This chapter shall be known, and may be cited, as the Clinical Social Worker Practice Act. It shall be liberally construed to effect its objectives.

SEC. 17. Section 4991.2 is added to the Business and Professions Code, to read:

4991.2. "Accredited school of social work," within the meaning of this chapter, is a school that is accredited by the Commission on Accreditation of the Council on Social Work Education.

SEC. 18. Section 4992.31 of the Business and Professions Code is repealed.

~~4992.31. (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.~~

~~(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).~~

1 ~~(e) The limitation provided for by subdivision (a) shall be~~
2 ~~tolled for the length of time required to obtain compliance when~~
3 ~~a report required to be filed by the licensee or registrant with the~~
4 ~~board pursuant to Article 11 (commencing with Section 800) of~~
5 ~~Chapter 1 is not filed in a timely fashion.~~

6 ~~(d) If an alleged act or omission involves a minor, the~~
7 ~~seven-year limitations period provided for by subdivision (a) and~~
8 ~~the 10-year limitations period provided for by subdivision (e)~~
9 ~~shall be tolled until the minor reaches the age of majority.~~

10 ~~(e) An accusation filed against a licensee pursuant to Section~~
11 ~~11503 of the Government Code alleging sexual misconduct shall~~
12 ~~be filed within three years after the board discovers the act or~~
13 ~~omission alleged as the ground for disciplinary action, or within~~
14 ~~10 years after the act or omission alleged as the ground for~~
15 ~~disciplinary action occurs, whichever occurs first. This~~
16 ~~subdivision shall apply to a complaint alleging sexual~~
17 ~~misconduct received by the board on and after January 1, 2002.~~

18 ~~(f) The limitations period provided by subdivision (a) shall be~~
19 ~~tolled during any period if material evidence necessary for~~
20 ~~prosecuting or determining whether a disciplinary action would~~
21 ~~be appropriate is unavailable to the board due to an ongoing~~
22 ~~criminal investigation.~~

23 ~~(g) For purposes of this section, “discovers” means the later of~~
24 ~~the occurrence of any of the following with respect to each act or~~
25 ~~omission alleged as the basis for disciplinary action:~~

26 ~~(1) The date the board received a complaint or report~~
27 ~~describing the act or omission.~~

28 ~~(2) The date, subsequent to the original complaint or report, on~~
29 ~~which the board became aware of any additional acts or~~
30 ~~omissions alleged as the basis for disciplinary action against the~~
31 ~~same individual.~~

32 ~~(3) The date the board receives from the complainant a written~~
33 ~~release of information pertaining to the complainant’s diagnosis~~
34 ~~and treatment.~~

35 *SEC. 19. Section 4994 of the Business and Professions Code*
36 *is amended to read:*

37 *4994. All Notwithstanding Section 13340 of the Government*
38 *Code and except as provided in Section 4984.6, all moneys in the*
39 *Behavioral Sciences Fund shall are continuously appropriated to*

1 *the board, to be expended by the board for the purposes of the*
2 *programs under its jurisdiction.*

3 *SEC. 20. The heading of Article 4 (commencing with Section*
4 *4996) of Chapter 14 of Division 2 of the Business and*
5 *Professions Code is amended to read:*

6
7 Article 4. ~~Clinical Social Workers Licensure~~
8

9 *SEC. 21. Section 4996.17 of the Business and Professions*
10 *Code is amended to read:*

11 4996.17. (a) Experience gained outside of California shall be
12 accepted toward the licensure requirements if it is substantially
13 the equivalent of the requirements of this chapter. The board may
14 issue a license to any person who, at the time of application, has
15 held a valid *active clinical social work* license, issued by a board
16 of clinical social work examiners or corresponding authority of
17 any state, ~~for two years if the education and supervised~~
18 ~~experience requirements are substantially the equivalent of this~~
19 ~~chapter and if the person successfully completes passes~~ the board
20 administered licensing examinations as specified in Section
21 4996.1 and pays the required fees. Issuance of the license is
22 conditioned upon ~~the person's completion of the following~~
23 ~~coursework and training all of the following:~~

24 (1) *The applicant has supervised experience that is*
25 *substantially the equivalent of that required by this chapter. If the*
26 *applicant has less than 3200 hours of qualifying supervised*
27 *experience, time actively licensed as a clinical social worker*
28 *shall be accepted at a rate of 100 hours per month up to a*
29 *maximum of 1200 hours.*

30 (2) *Completion of the following coursework or training in or*
31 *out of this state:*

32 (1)
33 (A) A minimum of seven contact hours of training or
34 coursework in child abuse assessment and reporting as specified
35 in Section 28, and any regulations promulgated thereunder.

36 (2)
37 (B) A minimum of 10 contact hours of training or coursework
38 in human sexuality as specified in Section 25, and any
39 regulations promulgated thereunder.

40 (3)

1 (C) A minimum of 15 contact hours of training or coursework
2 in alcoholism and other chemical substance dependency, as
3 specified by regulation.

4 ~~(4) (A) Instruction in spousal or partner abuse assessment,~~
5 ~~detection, and intervention. This instruction may be taken either~~
6 ~~in fulfillment of other requirements for licensure or in a separate~~
7 ~~course.~~

8 ~~(B)~~

9 ~~(D) On and after January 1, 2004, a~~ A minimum of 15 contact
10 hours of coursework or training in spousal or partner abuse
11 assessment, detection, and intervention strategies.

12 ~~(5) With respect to paragraphs (2), (3), and (4), the board may~~
13 ~~accept training or coursework acquired out of state.~~

14 ~~(b) A person who qualifies for licensure based on experience~~
15 ~~gained outside California may apply for and receive an associate~~
16 ~~registration to practice clinical social work.~~

17 *(3) The applicant's license is not suspended, revoked,*
18 *restricted, sanctioned, or voluntarily surrendered in any state.*

19 *(4) The applicant is not currently under investigation in any*
20 *other state, and has not been charged with an offense for any act*
21 *substantially related to the practice of social work by any public*
22 *agency, entered into any consent agreement or been subject to an*
23 *administrative decision that contains conditions placed by an*
24 *agency upon an applicant's professional conduct or practice,*
25 *including any voluntary surrender of license, or been the subject*
26 *of an adverse judgment resulting from the practice of social work*
27 *that the board determines constitutes evidence of a pattern of*
28 *incompetence or negligence.*

29 *(5) The applicant shall provide a certification from each state*
30 *where he or she holds a license pertaining to licensure,*
31 *disciplinary action, and complaints pending.*

32 *(6) The applicant is not subject to denial of licensure under*
33 *Sections 480, 4992.3, 4992.35, or 4992.36.*

34 *(b) The board may issue a license to any person who, at the*
35 *time of application, has held a valid, active clinical social work*
36 *license for a minimum of four years, issued by a board of clinical*
37 *social work examiners or a corresponding authority of any state,*
38 *if the person passes the board administered licensing*
39 *examinations as specified in Section 4996.1 and pays the*

1 *required fees. Issuance of the license is conditioned upon all of*
2 *the following.*

3 *(1) Completion of the following coursework or training in or*
4 *out of state:*

5 *(A) A minimum of seven contact hours of training or*
6 *coursework in child abuse assessment and reporting as specified*
7 *in Section 28, and any regulations promulgated thereunder.*

8 *(B) A minimum of 10 contact hours of training or coursework*
9 *in human sexuality as specified in Section 25, and any*
10 *regulations promulgated thereunder.*

11 *(C) A minimum of 15 contact hours of training or coursework*
12 *in alcoholism and other chemical substance dependency, as*
13 *specified by regulation.*

14 *(D) A minimum of 15 contact hours of coursework or training*
15 *in spousal or partner abuse assessment, detection, and*
16 *intervention strategies.*

17 *(2) The applicant has been licensed as a clinical social worker*
18 *continuously for a minimum of four years prior to the date of*
19 *application.*

20 *(3) The applicant's license is not suspended, revoked,*
21 *restricted, sanctioned, or voluntarily surrendered in any state.*

22 *(4) The applicant is not currently under investigation in any*
23 *other state, and has not been charged with an offense for any act*
24 *substantially related to the practice of social work by any public*
25 *agency, entered into any consent agreement or been subject to an*
26 *administrative decision that contains conditions placed by an*
27 *agency upon an applicant's professional conduct or practice,*
28 *including any voluntary surrender of license, or been the subject*
29 *of an adverse judgment resulting from the practice of social work*
30 *that the board determines constitutes evidence of a pattern of*
31 *incompetence or negligence.*

32 *(5) The applicant provides a certification from each state*
33 *where he or she holds a license pertaining to licensure,*
34 *disciplinary action, and complaints pending.*

35 *(6) The applicant is not subject to denial of licensure under*
36 *Section 480, 4992.3, 4992.35, or 4992.36.*

37 *SEC. 22. Section 4998.6 of the Business and Professions*
38 *Code is repealed.*

39 ~~4998.6. The board may formulate and enforce rules and~~
40 ~~regulations to carry out the purposes and objectives of this~~

1 article, including rules and regulations requiring (a) that the
2 articles of incorporation or bylaws of a licensed clinical social
3 worker corporation shall include a provision whereby the capital
4 stock of that corporation owned by a disqualified person, as
5 defined in the Moscone-Knox Professional Corporation Act, or a
6 deceased person shall be sold to the corporation or to the
7 remaining shareholders of that corporation within the time that
8 the rules and regulations may provide, and (b) that a licensed
9 clinical social worker corporation shall provide adequate security
10 by insurance or otherwise for claims against it by its patients
11 arising out of the rendering of professional services.

12 *SEC. 23. Section 4999 of the Business and Professions Code*
13 *is amended to read:*

14 4999. (a) ~~On and after January 1, 2000, no~~ Any business
15 entity that employs, or contracts or subcontracts, directly or
16 indirectly, with, the full-time equivalent of five or more persons
17 functioning as health care professionals, whose primary function
18 is to provide telephone medical advice, ~~shall engage in the~~
19 ~~business of providing~~ *that provides* telephone medical advice
20 services to a patient at a California address ~~unless the business is~~
21 *shall be* registered with the Telephone Medical Advice Services
22 Bureau. ~~The department may adopt emergency regulations~~
23 ~~further defining when a health care professional's primary~~
24 ~~function is providing telephone medical advice.~~

25 (b) ~~Any business entity required to be registered under~~
26 ~~subdivision (a) that submits proof of accreditation by the~~
27 ~~American Accreditation Healthcare Commission, URAC, the~~
28 ~~National Committee for Quality Assurance, the National Quality~~
29 ~~Health Council, or the Joint Commission on Accreditation of~~
30 ~~Healthcare Organizations shall be deemed provisionally~~
31 ~~registered by the bureau until the earlier of the following:~~

32 (1) ~~December 31, 2000.~~

33 (2) ~~The granting or denial of an application for registration~~
34 ~~pursuant to subdivision (a).~~

35 (c)

36 (b) A medical group that operates in multiple locations in
37 California shall not be required to register pursuant to this section
38 if no more than five full-time equivalent persons at any one
39 location perform telephone medical advice services and those

Item D

Assembly Bill 525

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 525 **VERSION:** AMENDED IN SENATE MAY 24, 2006

AUTHOR: CHU **SPONSOR:** CAMFT

RECOMMENDED POSITION: SUPPORT

SUBJECT: CHILD ABUSE REPORTING

Existing Law:

- 1) Requires the following practitioners to report suspected child abuse or neglect: (PC § 11165.7)
 - Marriage and Family Therapists (MFT), MFT interns and trainees
 - Social workers, including Licensed Clinical Social Workers (LCSW) and Associate Clinical Social Workers (ACSW)
 - Licensed Educational Psychologists (LEP)
 - Other persons and professionals who come into direct contact with children, elders, and dependent adults
- 2) Defines "child abuse or neglect" as: (PC § 11165.3, 11165.6)
 - Physical injury inflicted intentionally upon a child
 - Sexual abuse
 - Neglect
 - Intentionally causing or permitting a child to suffer
 - Inflicting unjustifiable physical pain or mental suffering
 - Causing or permitting the child to be placed in a situation where the child or the child's health is endangered
 - Unlawful corporal punishment or injury.
- 3) Requires a mandated reporter to report child abuse immediately or as soon as possible by telephone and in writing within 36 hours when, in his or her professional capacity, he or she reasonably suspects a child has been the victim of child abuse or neglect. (PC § 11166(a))
- 4) Permits a mandated reporter to make a report of child emotional abuse (not "unjustifiable mental suffering" which is considered child abuse), defined as a child who is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, evidenced by, but not limited to, the following: (PC § 11166.05)
 - Severe anxiety
 - Depression
 - Withdrawal
 - Untoward aggressive behavior toward self or others
- 5) Requires reports of suspected child abuse or neglect to be made by mandated reporters to any entity required to accept mandated reports. (PC § 11165.9)

- 6) Permits the mandated reporter to release information related to the incident of child abuse or neglect to an investigator from an agency that is investigating the case of child abuse or neglect or to the pertinent branch of the Department of Social Services. (PC § 11167(b), 11167(c)))
- 7) Requires the identity of mandated reporters to be confidential and disclosed only among involved agencies, or to the prosecutor of alleged child abuse, to counsel, or to the Department of Social Services when abuse or neglect in out-of-home care is reasonably suspected, or when the mandated reporter waives confidentiality, or by court order. (PC § 11167(d)(1))
- 8) Requires the child abuse investigator to advise the individual who is being investigated of the complaints or allegations against him or her in a manner that protects the identity of the mandated reporter. (PC § 11167(e))
- 9) Requires reports of child abuse or neglect and any investigative reports that result in a summary report being filed with the Department of Justice to be confidential and to be disclosed only to those persons or entities as permitted by law. (PC § 11167.5(a))
- 10) Requires the agency investigating a report of child abuse or neglect to provide the mandated reporter with a report of the results of the investigation and of any action the agency is taking regarding the child or family upon completion of the investigation or after the case has been closed. (PC § 11170(b)(2))

This Bill:

- 1) Adds child emotional abuse to the definition of "child abuse and neglect." (PC § 11165.6)
- 2) Requires reports of suspected child emotional abuse to be made to any entity required to accept mandated reports. (PC § 11165.9)
- 3) Clarifies that the reporting of child emotional abuse is not a mandatory report. (PC § 11166(a))
- 4) Establishes the technical requirements of an authorized report of child emotional abuse. 11167(a).
- 5) Permits the authorized reporter to release information related to the incident of child emotional abuse to an investigator from an agency investigating the case or to the pertinent branch of the Department of Social Services. (PC § 11167(b), 11167(c))
- 6) Requires the identity of authorized reporters to be confidential and disclosed only among involved agencies, to the prosecutor, to counsel, or to the Department of Social Services, or when the authorized reporter waives confidentiality, or by court order. (PC § 11167(d)(1))
- 7) Requires the child abuse investigator to advise the individual who is subject to the investigation of the complaints or allegations against him or her in a manner that protects the identity of the authorized reporter. (PC § 11167(e))
- 8) Requires reports of child emotional abuse, and any investigative reports that result in a summary report being filed with the Department of Justice to be confidential and be disclosed only to those persons or entities as permitted by law. (PC § 11167.5(a))

- 9) Requires the agency investigating a report of child emotional abuse to provide the authorized reporter with a report of the results of the investigation and of any action the agency is taking with regard to the child or family upon completion of the investigation or after the case has been closed. (PC § 11170(b)(2))

Comment:

- 1) **Author's Intent.** According to the author, in the last few years, there have been a lot of changes to the child abuse law which has lead to confusion regarding the reporting of child emotional abuse. This bill makes conforming changes, including stating that emotional abuse is child abuse, that confidentiality protections also apply to those who report emotional abuse (the same as those who report other types of abuse), and that those who report emotional abuse are entitled to find out what happened, just as they would for a mandated report. According to the sponsor, a couple of years ago child emotional abuse was placed in a separate section of the penal code than the Child Abuse and Neglect Reporting Act, and as a result of its relocation does not appear to be a form of abuse. The sponsor wants to make it clear that emotional abuse is a form of abuse, even though it is permissive to report. Such is the case in 48 other states, whether the report is permissive or mandatory.
- 2) **Permissive vs. Mandatory.** This bill would impact all of the Board's licensees and registrants because they are mandated reporters of child abuse and neglect. One potential reading of this bill is that it would make the reporting of child emotional abuse mandatory. This is because the proposal adds child emotional abuse to the definition of child abuse, and child abuse is required to be reported.
- 3) **Suggested Amendments.**
- The proposed section 11165.6 appears to have a typographical error. The suggested amendment is as follows:

11165.6. As used in this article, the term "child abuse or neglect" includes physical injury inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse and neglect also includes instances in which a child suffers or is at substantial risk of suffering serious emotional damage as described in Section ~~11165.05~~ 11166.05. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.
 - The following addition is suggested in section 11167(d)(1) to clarify that confidentiality also applies to non-mandated reports, in line with the sponsor's intent:

11167(d)(1) The identity of all persons who report under this article shall be confidential and disclosed only among agencies receiving or investigating mandated or authorized reports, to the prosecutor in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code, or to the county counsel or prosecutor in a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 300 of the Welfare and

Institutions Code, or to a licensing agency when abuse or neglect in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

4) Support and Opposition.

None known at this time.

5) History

2006

Mar. 22 Withdrawn from committee. Re-referred to Com. on PUB. S.
Mar. 15 Re-referred to Coms. on HUMAN S. and PUB. S.
Mar. 8 Withdrawn from committee. Re-referred to Com. on RLS.
Mar. 7 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on HEALTH.
Feb. 2 Referred to Com. on HEALTH.
Jan. 26 In Senate. Read first time. To Com. on RLS. for assignment.
Jan. 26 Read third time, passed, and to Senate. (Ayes 48. Noes 27. Page 4112.)
Jan. 24 Read second time. To third reading.
Jan. 23 Read second time and amended. Ordered returned to second reading.
Jan. 19 From committee: Amend, and do pass as amended. (Ayes 13. Noes 0.) (January 19).

2005

May 25 In committee: Hearing postponed by committee.
May 18 In committee: Set, first hearing. Referred to APPR. suspense file.
Apr. 27 Re-referred to Com. on APPR.
Apr. 26 Read second time and amended.
Apr. 25 From committee: Amend, and do pass as amended, and re-refer to Com. on APPR. (Ayes 11. Noes 1.) (April 19).
Apr. 12 In committee: Set, first hearing. Hearing canceled at the request of author.
Apr. 5 Re-referred to Com. on HEALTH.
Apr. 4 From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
Feb. 28 Referred to Com. on HEALTH.
Feb. 17 From printer. May be heard in committee March 19.
Feb. 16 Read first time. To print.

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AMENDED IN SENATE MAY 24, 2006

AMENDED IN SENATE MAY 16, 2006

AMENDED IN SENATE MARCH 7, 2006

AMENDED IN ASSEMBLY JANUARY 23, 2006

AMENDED IN ASSEMBLY APRIL 26, 2005

AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 525

Introduced by Assembly Member Chu

February 16, 2005

An act to amend Sections 11162.5, 11165.6, 11165.9, 11166, 11167, 11167.5, and 11170 of the Penal Code, relating to child abuse reporting.

LEGISLATIVE COUNSEL'S DIGEST

AB 525, as amended, Chu. Child abuse reporting.

Existing law defines the term “child abuse or neglect” for purposes of mandatory reporting of suspected instances of child abuse or neglect. Existing law specifies certain agencies to which mandated reports of suspected child abuse or neglect shall be made. Existing law requires those agencies to forward those reports that are determined not to be unfounded to the Department of Justice. Existing law also authorizes, but does not require, the reporting of instances where a child suffers or is at substantial risk of suffering serious emotional damage, as specified.

This bill would include within that definition of “child abuse or neglect,” instances where a child suffers or is at substantial risk of suffering serious emotional damage, as defined. This bill would generally conform the procedures for authorized reporting of instances of child abuse or neglect involving emotional damage, as specified, to certain existing procedures applicable to mandated child abuse reporting.

By increasing the reporting burden on local law enforcement agencies, this bill would impose a state-mandated local program.

Existing law requires a representative of a child protective services agency performing an investigation resulting from a required report of suspected child abuse or neglect to inform the individual who is the subject of the investigation, at the 1st contact, of the complaints or allegations against that person, as specified.

This bill would apply that requirement in the context of reports of child abuse or neglect involving serious emotional damage that are authorized to be reported.

By increasing the duties of local government entities in connection with investigating certain instances of suspected child abuse, this bill would impose a state-mandated local program.

Existing law requires the investigating agency investigating suspected child abuse or neglect, upon completion of the investigation or after there has been a final disposition of the matter, to inform the mandated reporter of the results of the investigation and of any action the agency is taking with regard to the child or family.

This bill would apply that requirement to the context of reports of child abuse or neglect involving serious emotional damage that are authorized to be reported.

This bill would also correct an obsolete cross-reference.

By increasing the duties of local government entities in connection with investigating certain instances of suspected child abuse, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11162.5 of the Penal Code is amended
2 to read:

3 11162.5. As used in this article, the following definitions
4 shall apply:

5 (a) "Health practitioner" has the same meaning as provided in
6 ~~Section 11165.8 paragraphs (21) to (28), inclusive, of~~
7 ~~subdivision (a) of Section 11165.7.~~

8 (b) "Clinic" is limited to include any clinic specified in
9 Sections 1204 and 1204.3 of the Health and Safety Code.

10 (c) "Health facility" has the same meaning as provided in
11 Section 1250 of the Health and Safety Code.

12 (d) "Reasonably suspects" means that it is objectively
13 reasonable for a person to entertain a suspicion, based upon facts
14 that could cause a reasonable person in a like position, drawing,
15 when appropriate, on his or her training and experience, to
16 suspect.

17 ~~SECTION 1.~~

18 SEC. 2. Section 11165.6 of the Penal Code is amended to
19 read:

20 11165.6. As used in this article, the term "child abuse or
21 neglect" includes physical injury inflicted by other than
22 accidental means upon a child by another person, sexual abuse as
23 defined in Section 11165.1, neglect as defined in Section
24 11165.2, the willful harming or injuring of a child or the
25 endangering of the person or health of a child, as defined in
26 Section 11165.3, and unlawful corporal punishment or injury as
27 defined in Section 11165.4. "Child abuse or neglect also includes
28 instances in which a child suffers or is at substantial risk of
29 suffering serious emotional damage as described in Section
30 11166.05. "Child abuse or neglect" does not include a mutual
31 affray between minors. "Child abuse or neglect" does not include
32 an injury caused by reasonable and necessary force used by a
33 peace officer acting within the course and scope of his or her
34 employment as a peace officer.

1 ~~SEC. 2.~~

2 *SEC. 3.* Section 11165.9 of the Penal Code is amended to
3 read:

4 11165.9. Reports of suspected child abuse or neglect shall be
5 made by mandated reporters, or in the case of reports pursuant to
6 Section 11166.05, may be made, to any police department or
7 sheriff's department, not including a school district police or
8 security department, county probation department, if designated
9 by the county to receive mandated reports, or the county welfare
10 department. Any of those agencies shall accept a report of
11 suspected child abuse or neglect whether offered by a mandated
12 reporter or another person, or referred by another agency, even if
13 the agency to whom the report is being made lacks subject matter
14 or geographical jurisdiction to investigate the reported case,
15 unless the agency can immediately electronically transfer the call
16 to an agency with proper jurisdiction. When an agency takes a
17 report about a case of suspected child abuse or neglect in which
18 that agency lacks jurisdiction, the agency shall immediately refer
19 the case by telephone, fax, or electronic transmission to an
20 agency with proper jurisdiction. Agencies that are required to
21 receive reports of suspected child abuse or neglect may not
22 refuse to accept a report of suspected child abuse or neglect from
23 a mandated reporter or another person unless otherwise
24 authorized pursuant to this section, and shall maintain a record of
25 all reports received.

26 ~~SEC. 3.~~

27 *SEC. 4.* Section 11166 of the Penal Code is amended to read:

28 11166. (a) Except as provided in subdivision (d), and in
29 Section 11166.05, a mandated reporter shall make a report to an
30 agency specified in Section 11165.9 whenever the mandated
31 reporter, in his or her professional capacity or within the scope of
32 his or her employment, has knowledge of or observes a child
33 whom the mandated reporter knows or reasonably suspects has
34 been the victim of child abuse or neglect. The mandated reporter
35 shall make an initial report to the agency immediately or as soon
36 as is practicably possible by telephone and the mandated reporter
37 shall prepare and send, fax, or electronically transmit a written
38 followup report thereof within 36 hours of receiving the
39 information concerning the incident. The mandated reporter may

1 include with the report any nonprivileged documentary evidence
2 the mandated reporter possesses relating to the incident.

3 (1) For the purposes of this article, “reasonable suspicion”
4 means that it is objectively reasonable for a person to entertain a
5 suspicion, based upon facts that could cause a reasonable person
6 in a like position, drawing, when appropriate, on his or her
7 training and experience, to suspect child abuse or neglect. For the
8 purpose of this article, the pregnancy of a minor does not, in and
9 of itself, constitute a basis for a reasonable suspicion of sexual
10 abuse.

11 (2) The agency shall be notified and a report shall be prepared
12 and sent, faxed, or electronically transmitted even if the child has
13 expired, regardless of whether or not the possible abuse was a
14 factor contributing to the death, and even if suspected child abuse
15 was discovered during an autopsy.

16 (3) Any report made by a mandated reporter pursuant to this
17 section shall be known as a mandated report.

18 (b) If after reasonable efforts a mandated reporter is unable to
19 submit an initial report by telephone, he or she shall immediately
20 or as soon as is practicably possible, by fax or electronic
21 transmission, make a one-time automated written report on the
22 form prescribed by the Department of Justice, and shall also be
23 available to respond to a telephone followup call by the agency
24 with which he or she filed the report. A mandated reporter who
25 files a one-time automated written report because he or she was
26 unable to submit an initial report by telephone is not required to
27 submit a written followup report.

28 (1) The one-time automated written report form prescribed by
29 the Department of Justice shall be clearly identifiable so that it is
30 not mistaken for a standard written followup report. In addition,
31 the automated one-time report shall contain a section that allows
32 the mandated reporter to state the reason the initial telephone call
33 was not able to be completed. The reason for the submission of
34 the one-time automated written report in lieu of the procedure
35 prescribed in subdivision (a) shall be captured in the Child
36 Welfare Services/Case Management System (CWS/CMS). The
37 department shall work with stakeholders to modify reporting
38 forms and the CWS/CMS as is necessary to accommodate the
39 changes enacted by these provisions.

1 (2) This subdivision shall not become operative until the
2 CWS/CMS is updated to capture the information prescribed in
3 this subdivision.

4 (3) This subdivision shall become inoperative three years after
5 this subdivision becomes operative or on January 1, 2009, which
6 ever occurs first.

7 (4) On the inoperative date of these provisions, a report shall
8 be submitted to the counties and the Legislature by the
9 Department of Social Services that reflects the data collected
10 from automated one-time reports indicating the reasons stated as
11 to why the automated one-time report was filed in lieu of the
12 initial telephone report.

13 (5) Nothing in this section shall supersede the requirement that
14 a mandated reporter first attempt to make a report via telephone,
15 or that agencies specified in Section 11165.9 accept reports from
16 mandated reporters and other persons as required.

17 (c) Any mandated reporter who fails to report an incident of
18 known or reasonably suspected child abuse or neglect as required
19 by this section is guilty of a misdemeanor punishable by up to six
20 months confinement in a county jail or by a fine of one thousand
21 dollars (\$1,000) or by both that imprisonment and fine. If a
22 mandated reporter intentionally conceals his or her failure to
23 report an incident known by the mandated reporter to be abuse or
24 severe neglect under this section, the failure to report is a
25 continuing offense until an agency specified in Section 11165.9
26 discovers the offense.

27 (d) (1) A clergy member who acquires knowledge or a
28 reasonable suspicion of child abuse or neglect during a
29 penitential communication is not subject to subdivision (a). For
30 the purposes of this subdivision, "penitential communication"
31 means a communication, intended to be in confidence, including,
32 but not limited to, a sacramental confession, made to a clergy
33 member who, in the course of the discipline or practice of his or
34 her church, denomination, or organization, is authorized or
35 accustomed to hear those communications, and under the
36 discipline, tenets, customs, or practices of his or her church,
37 denomination, or organization, has a duty to keep those
38 communications secret.

39 (2) Nothing in this subdivision shall be construed to modify or
40 limit a clergy member's duty to report known or suspected child

1 abuse or neglect when the clergy member is acting in some other
2 capacity that would otherwise make the clergy member a
3 mandated reporter.

4 (3) (A) On or before January 1, 2004, a clergy member or any
5 custodian of records for the clergy member may report to an
6 agency specified in Section 11165.9 that the clergy member or
7 any custodian of records for the clergy member, prior to January
8 1, 1997, in his or her professional capacity or within the scope of
9 his or her employment, other than during a penitential
10 communication, acquired knowledge or had a reasonable
11 suspicion that a child had been the victim of sexual abuse that the
12 clergy member or any custodian of records for the clergy
13 member did not previously report the abuse to an agency
14 specified in Section 11165.9. The provisions of Section 11172
15 shall apply to all reports made pursuant to this paragraph.

16 (B) This paragraph shall apply even if the victim of the known
17 or suspected abuse has reached the age of majority by the time
18 the required report is made.

19 (C) The local law enforcement agency shall have jurisdiction
20 to investigate any report of child abuse made pursuant to this
21 paragraph even if the report is made after the victim has reached
22 the age of majority.

23 (e) Any commercial film and photographic print processor
24 who has knowledge of or observes, within the scope of his or her
25 professional capacity or employment, any film, photograph,
26 videotape, negative, or slide depicting a child under the age of 16
27 years engaged in an act of sexual conduct, shall report the
28 instance of suspected child abuse to the law enforcement agency
29 having jurisdiction over the case immediately, or as soon as
30 practicably possible, by telephone and shall prepare and send,
31 fax, or electronically transmit a written report of it with a copy of
32 the film, photograph, videotape, negative, or slide attached
33 within 36 hours of receiving the information concerning the
34 incident. As used in this subdivision, "sexual conduct" means
35 any of the following:

36 (1) Sexual intercourse, including genital-genital, oral-genital,
37 anal-genital, or oral-anal, whether between persons of the same
38 or opposite sex or between humans and animals.

39 (2) Penetration of the vagina or rectum by any object.

1 (3) Masturbation for the purpose of sexual stimulation of the
2 viewer.

3 (4) Sadomasochistic abuse for the purpose of sexual
4 stimulation of the viewer.

5 (5) Exhibition of the genitals, pubic, or rectal areas of any
6 person for the purpose of sexual stimulation of the viewer.

7 (f) Any mandated reporter who knows or reasonably suspects
8 that the home or institution in which a child resides is unsuitable
9 for the child because of abuse or neglect of the child shall bring
10 the condition to the attention of the agency to which, and at the
11 same time as, he or she makes a report of the abuse or neglect
12 pursuant to subdivision (a).

13 (g) Any other person who has knowledge of or observes a
14 child whom he or she knows or reasonably suspects has been a
15 victim of child abuse or neglect may report the known or
16 suspected instance of child abuse or neglect to an agency
17 specified in Section 11165.9.

18 (h) When two or more persons, who are required to report,
19 jointly have knowledge of a known or suspected instance of child
20 abuse or neglect, and when there is agreement among them, the
21 telephone report may be made by a member of the team selected
22 by mutual agreement and a single report may be made and signed
23 by the selected member of the reporting team. Any member who
24 has knowledge that the member designated to report has failed to
25 do so shall thereafter make the report.

26 (i) (1) The reporting duties under this section are individual,
27 and no supervisor or administrator may impede or inhibit the
28 reporting duties, and no person making a report shall be subject
29 to any sanction for making the report. However, internal
30 procedures to facilitate reporting and apprise supervisors and
31 administrators of reports may be established provided that they
32 are not inconsistent with this article.

33 (2) The internal procedures shall not require any employee
34 required to make reports pursuant to this article to disclose his or
35 her identity to the employer.

36 (3) Reporting the information regarding a case of possible
37 child abuse or neglect to an employer, supervisor, school
38 principal, school counselor, coworker, or other person shall not
39 be a substitute for making a mandated report to an agency
40 specified in Section 11165.9.

1 (j) A county probation or welfare department shall
2 immediately, or as soon as practicably possible, report by
3 telephone, fax, or electronic transmission to the law enforcement
4 agency having jurisdiction over the case, to the agency given the
5 responsibility for investigation of cases under Section 300 of the
6 Welfare and Institutions Code, and to the district attorney's
7 office every known or suspected instance of child abuse or
8 neglect, as defined in Section 11165.6, except acts or omissions
9 coming within subdivision (b) of Section 11165.2, or reports
10 made pursuant to Section 11165.13 based on risk to a child
11 which relates solely to the inability of the parent to provide the
12 child with regular care due to the parent's substance abuse, which
13 shall be reported only to the county welfare or probation
14 department. A county probation or welfare department also shall
15 send, fax, or electronically transmit a written report thereof
16 within 36 hours of receiving the information concerning the
17 incident to any agency to which it makes a telephone report
18 under this subdivision.

19 (k) A law enforcement agency shall immediately, or as soon as
20 practicably possible, report by telephone, fax, or electronic
21 transmission to the agency given responsibility for investigation
22 of cases under Section 300 of the Welfare and Institutions Code
23 and to the district attorney's office every known or suspected
24 instance of child abuse or neglect reported to it, except acts or
25 omissions coming within subdivision (b) of Section 11165.2,
26 which shall be reported only to the county welfare or probation
27 department. A law enforcement agency shall report to the county
28 welfare or probation department every known or suspected
29 instance of child abuse or neglect reported to it which is alleged
30 to have occurred as a result of the action of a person responsible
31 for the child's welfare, or as the result of the failure of a person
32 responsible for the child's welfare to adequately protect the
33 minor from abuse when the person responsible for the child's
34 welfare knew or reasonably should have known that the minor
35 was in danger of abuse. A law enforcement agency also shall
36 send, fax, or electronically transmit a written report thereof
37 within 36 hours of receiving the information concerning the
38 incident to any agency to which it makes a telephone report
39 under this subdivision.

1 ~~SEC. 4.~~

2 *SEC. 5.* Section 11167 of the Penal Code is amended to read:

3 11167. (a) Reports of suspected child abuse or neglect
4 pursuant to Section 11166 or Section 11166.05 shall include the
5 name, business address, and telephone number of the mandated
6 reporter; the capacity that makes the person a mandated reporter;
7 and the information that gave rise to the reasonable suspicion of
8 child abuse or neglect and the source or sources of that
9 information. If a report is made, the following information, if
10 known, shall also be included in the report: the child's name, the
11 child's address, present location, and, if applicable, school,
12 grade, and class; the names, addresses, and telephone numbers of
13 the child's parents or guardians; and the name, address, telephone
14 number, and other relevant personal information about the person
15 or persons who might have abused or neglected the child. The
16 mandated reporter shall make a report even if some of this
17 information is not known or is uncertain to him or her.

18 (b) Information relevant to the incident of child abuse or
19 neglect may be given to an investigator from an agency that is
20 investigating the known or suspected case of child abuse or
21 neglect.

22 (c) Information relevant to the incident of child abuse or
23 neglect, including the investigation report and other pertinent
24 materials, may be given to the licensing agency when it is
25 investigating a known or suspected case of child abuse or
26 neglect.

27 (d) (1) The identity of all persons who report under this article
28 shall be confidential and disclosed only among agencies
29 receiving or investigating mandated reports, to the prosecutor in
30 a criminal prosecution or in an action initiated under Section 602
31 of the Welfare and Institutions Code arising from alleged child
32 abuse, or to counsel appointed pursuant to subdivision (c) of
33 Section 317 of the Welfare and Institutions Code, or to the
34 county counsel or prosecutor in a proceeding under Part 4
35 (commencing with Section 7800) of Division 12 of the Family
36 Code or Section 300 of the Welfare and Institutions Code, or to a
37 licensing agency when abuse or neglect in out-of-home care is
38 reasonably suspected, or when those persons waive
39 confidentiality, or by court order.

1 (2) No agency or person listed in this subdivision shall
2 disclose the identity of any person who reports under this article
3 to that person's employer, except with the employee's consent or
4 by court order.

5 (e) Notwithstanding the confidentiality requirements of this
6 section, a representative of a child protective services agency
7 performing an investigation that results from a report of
8 suspected child abuse or neglect made pursuant to Section 11166
9 or Section 11166.05, at the time of the initial contact with the
10 individual who is subject to the investigation, shall advise the
11 individual of the complaints or allegations against him or her, in
12 a manner that is consistent with laws protecting the identity of
13 the reporter under this article.

14 (f) Persons who may report pursuant to subdivision (g) of
15 Section 11166 are not required to include their names.

16 ~~SEC. 5.~~

17 *SEC. 6.* Section 11167.5 of the Penal Code is amended to
18 read:

19 11167.5. (a) The reports required by Sections 11166 and
20 11166.2, or authorized by Section 11166.05, and child abuse or
21 neglect investigative reports that result in a summary report being
22 filed with the Department of Justice pursuant to subdivision (a)
23 of Section 11169 shall be confidential and may be disclosed only
24 as provided in subdivision (b). Any violation of the
25 confidentiality provided by this article is a misdemeanor
26 punishable by imprisonment in a county jail not to exceed six
27 months, by a fine of five hundred dollars (\$500), or by both that
28 imprisonment and fine.

29 (b) Reports of suspected child abuse or neglect and
30 information contained therein may be disclosed only to the
31 following:

32 (1) Persons or agencies to whom disclosure of the identity of
33 the reporting party is permitted under Section 11167.

34 (2) Persons or agencies to whom disclosure of information is
35 permitted under subdivision (b) of Section 11170 or subdivision
36 (a) of Section 11170.5.

37 (3) Persons or agencies with whom investigations of child
38 abuse or neglect are coordinated under the regulations
39 promulgated under Section 11174.

1 (4) Multidisciplinary personnel teams as defined in
2 subdivision (d) of Section 18951 of the Welfare and Institutions
3 Code.

4 (5) Persons or agencies responsible for the licensing of
5 facilities which care for children, as specified in Section 11165.7.

6 (6) The State Department of Social Services or any county
7 licensing agency which has contracted with the state, as specified
8 in paragraph (4) of subdivision (b) of Section 11170, when an
9 individual has applied for a community care license or child day
10 care license, or for employment in an out-of-home care facility,
11 or when a complaint alleges child abuse or neglect by an operator
12 or employee of an out-of-home care facility.

13 (7) Hospital scan teams. As used in this paragraph, “hospital
14 scan team” means a team of three or more persons established by
15 a hospital, or two or more hospitals in the same county,
16 consisting of health care professionals and representatives of law
17 enforcement and child protective services, the members of which
18 are engaged in the identification of child abuse or neglect. The
19 disclosure authorized by this section includes disclosure among
20 all hospital scan teams.

21 (8) Coroners and medical examiners when conducting a
22 postmortem examination of a child.

23 (9) The Board of Prison Terms, who may subpoena an
24 employee of a county welfare department who can provide
25 relevant evidence and reports that both (A) are not unfounded,
26 pursuant to Section 11165.12, and (B) concern only the current
27 incidents upon which parole revocation proceedings are pending
28 against a parolee charged with child abuse or neglect. The reports
29 and information shall be confidential pursuant to subdivision (d)
30 of Section 11167.

31 (10) Personnel from an agency responsible for making a
32 placement of a child pursuant to Section 361.3 of, and Article 7
33 (commencing with Section 305) of Chapter 2 of Part 1 of
34 Division 2 of, the Welfare and Institutions Code.

35 (11) Persons who have been identified by the Department of
36 Justice as listed in the Child Abuse Central Index pursuant to
37 paragraph (6) of subdivision (b) of Section 11170 or subdivision
38 (c) of Section 11170, or persons who have verified with the
39 Department of Justice that they are listed in the Child Abuse
40 Central Index as provided in subdivision (e) of Section 11170.

1 Disclosure under this paragraph is required notwithstanding the
2 California Public Records Act, Chapter 3.5 (commencing with
3 Section 6250) of Division 7 of Title 1 of the Government Code.
4 Nothing in this paragraph shall preclude a submitting agency
5 prior to disclosure from redacting any information necessary to
6 maintain confidentiality as required by law.

7 (12) Out-of-state law enforcement agencies conducting an
8 investigation of child abuse or neglect only when an agency
9 makes the request for reports of suspected child abuse or neglect
10 in writing and on official letterhead, identifying the suspected
11 abuser or victim by name. The request shall be signed by the
12 department supervisor of the requesting law enforcement agency.
13 The written request shall cite the out-of-state statute or interstate
14 compact provision that requires that the information contained
15 within these reports is to be disclosed only to law enforcement,
16 prosecutorial entities, or multidisciplinary investigative teams,
17 and shall cite the criminal penalties for unlawful disclosure
18 provided by the requesting state or the applicable interstate
19 compact provision. In the absence of both (A) a specific
20 out-of-state statute or interstate compact provision that requires
21 that the information contained within these reports be disclosed
22 only to law enforcement, prosecutorial entities, or
23 multidisciplinary investigative teams, and (B) criminal penalties
24 equivalent to the penalties in California for unlawful disclosure,
25 access shall be denied.

26 (13) Each chairperson of a county child death review team, or
27 his or her designee, to whom disclosure of information is
28 permitted under this article, relating to the death of one or more
29 children and any prior child abuse or neglect investigation reports
30 maintained involving the same victim, siblings, or suspects.
31 Local child death review teams may share any relevant
32 information regarding case reviews involving child death with
33 other child death review teams.

34 (c) Authorized persons within county health departments shall
35 be permitted to receive copies of any reports made by health
36 practitioners, as defined in paragraphs (21) to (28), inclusive, of
37 subdivision (a) of Section 11165.7, and pursuant to Section
38 11165.13, and copies of assessments completed pursuant to
39 Sections 123600 and 123605 of the Health and Safety Code, to

1 the extent permitted by federal law. Any information received
2 pursuant to this subdivision is protected by subdivision (e).

3 (d) Nothing in this section requires the Department of Justice
4 to disclose information contained in records maintained under
5 Section 11170 or under the regulations promulgated pursuant to
6 Section 11174, except as otherwise provided in this article.

7 (e) This section shall not be interpreted to allow disclosure of
8 any reports or records relevant to the reports of child abuse or
9 neglect if the disclosure would be prohibited by any other
10 provisions of state or federal law applicable to the reports or
11 records relevant to the reports of child abuse or neglect.

12 ~~SEC. 6.~~

13 *SEC. 7.* Section 11170 of the Penal Code is amended to read:

14 11170. (a) (1) The Department of Justice shall maintain an
15 index of all reports of child abuse and severe neglect submitted
16 pursuant to Section 11169. The index shall be continually
17 updated by the department and shall not contain any reports that
18 are determined to be unfounded. The department may adopt rules
19 governing recordkeeping and reporting pursuant to this article.

20 (2) The department shall act only as a repository of reports of
21 suspected child abuse and severe neglect to be maintained in the
22 Child Abuse Central Index pursuant to paragraph (1). The
23 submitting agencies are responsible for the accuracy,
24 completeness, and retention of the reports described in this
25 section. The department shall be responsible for ensuring that the
26 Child Abuse Central Index accurately reflects the report it
27 receives from the submitting agency.

28 (3) Information from an inconclusive or unsubstantiated report
29 filed pursuant to subdivision (a) of Section 11169 shall be
30 deleted from the Child Abuse Central Index after 10 years if no
31 subsequent report concerning the same suspected child abuser is
32 received within that time period. If a subsequent report is
33 received within that 10-year period, information from any prior
34 report, as well as any subsequently filed report, shall be
35 maintained on the Child Abuse Central Index for a period of 10
36 years from the time the most recent report is received by the
37 department.

38 (b) (1) The Department of Justice shall immediately notify an
39 agency that submits a report pursuant to Section 11169, or a
40 prosecutor who requests notification, of any information

1 maintained pursuant to subdivision (a) that is relevant to the
2 known or suspected instance of child abuse or severe neglect
3 reported by the agency. The agency shall make that information
4 available to the reporting medical practitioner, child custodian,
5 guardian ad litem appointed under Section 326, or counsel
6 appointed under Section 317 or 318 of the Welfare and
7 Institutions Code, or the appropriate licensing agency, if he or
8 she is treating or investigating a case of known or suspected child
9 abuse or severe neglect.

10 (2) When a report is made pursuant to subdivision (a) of
11 Section 11166, or Section 11166.05, the investigating agency,
12 upon completion of the investigation or after there has been a
13 final disposition in the matter, shall inform the person required or
14 authorized to report of the results of the investigation and of any
15 action the agency is taking with regard to the child or family.

16 (3) The Department of Justice shall make available to a law
17 enforcement agency, county welfare department, or county
18 probation department that is conducting a child abuse
19 investigation relevant information contained in the index.

20 (4) The department shall make available to the State
21 Department of Social Services or to any county licensing agency
22 that has contracted with the state for the performance of licensing
23 duties information regarding a known or suspected child abuser
24 maintained pursuant to this section and subdivision (a) of Section
25 11169 concerning any person who is an applicant for licensure or
26 any adult who resides or is employed in the home of an applicant
27 for licensure or who is an applicant for employment in a position
28 having supervisory or disciplinary power over a child or
29 children, or who will provide 24-hour care for a child or children
30 in a residential home or facility, pursuant to Section 1522.1 or
31 1596.877 of the Health and Safety Code, or Section 8714, 8802,
32 8912, or 9000 of the Family Code.

33 (5) For purposes of child death review, the Department of
34 Justice shall make available to the chairperson, or the
35 chairperson's designee, for each county child death review team,
36 or the State Child Death Review Council, information maintained
37 in the Child Abuse Central Index pursuant to subdivision (a) of
38 Section 11170 relating to the death of one or more children and
39 any prior child abuse or neglect investigation reports maintained
40 involving the same victims, siblings, or suspects. Local child

1 death review teams may share any relevant information regarding
2 case reviews involving child death with other child death review
3 teams.

4 (6) The department shall make available to investigative
5 agencies or probation officers, or court investigators acting
6 pursuant to Section 1513 of the Probate Code, responsible for
7 placing children or assessing the possible placement of children
8 pursuant to Article 6 (commencing with Section 300), Article 7
9 (commencing with Section 305), Article 10 (commencing with
10 Section 360), or Article 14 (commencing with Section 601) of
11 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
12 Code, Article 2 (commencing with Section 1510) or Article 3
13 (commencing with Section 1540) of Chapter 1 of Part 2 of
14 Division 4 of the Probate Code, information regarding a known
15 or suspected child abuser contained in the index concerning any
16 adult residing in the home where the child may be placed, when
17 this information is requested for purposes of ensuring that the
18 placement is in the best interests of the child. Upon receipt of
19 relevant information concerning child abuse or neglect
20 investigation reports contained in the index from the Department
21 of Justice pursuant to this subdivision, the agency or court
22 investigator shall notify, in writing, the person listed in the Child
23 Abuse Central Index that he or she is in the index. The
24 notification shall include the name of the reporting agency and
25 the date of the report.

26 (7) The Department of Justice shall make available to a
27 government agency conducting a background investigation
28 pursuant to Section 1031 of the Government Code of an
29 applicant seeking employment as a peace officer, as defined in
30 Section 830, information regarding a known or suspected child
31 abuser maintained pursuant to this section concerning the
32 applicant.

33 (8) (A) Persons or agencies, as specified in subdivision (b), if
34 investigating a case of known or suspected child abuse or
35 neglect, or the State Department of Social Services or any county
36 licensing agency pursuant to paragraph (4), or an investigative
37 agency, probation officer, or court investigator responsible for
38 placing children or assessing the possible placement of children
39 pursuant to paragraph (6), or a government agency conducting a
40 background investigation of an applicant seeking employment as

1 a peace officer pursuant to paragraph (7), to whom disclosure of
2 any information maintained pursuant to subdivision (a) is
3 authorized, are responsible for obtaining the original
4 investigative report from the reporting agency, and for drawing
5 independent conclusions regarding the quality of the evidence
6 disclosed, and its sufficiency for making decisions regarding
7 investigation, prosecution, licensing, placement of a child, or
8 employment as a peace officer.

9 (B) If Child Abuse Central Index information is requested by
10 an agency for the temporary placement of a child in an
11 emergency situation pursuant to Article 7 (commencing with
12 Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare
13 and Institutions Code, the department is exempt from the
14 requirements of Section 1798.18 of the Civil Code if compliance
15 would cause a delay in providing an expedited response to the
16 agency's inquiry and if further delay in placement may be
17 detrimental to the child.

18 (9) (A) Whenever information contained in the Department of
19 Justice files is furnished as the result of an application for
20 employment or licensing pursuant to paragraph (4) or (7), the
21 Department of Justice may charge the person or entity making
22 the request a fee. The fee shall not exceed the reasonable costs to
23 the department of providing the information. The only increase
24 shall be at a rate not to exceed the legislatively approved
25 cost-of-living adjustment for the department. In no case shall the
26 fee exceed fifteen dollars (\$15).

27 (B) All moneys received by the department pursuant to this
28 section to process trustline applications for purposes of Chapter
29 3.35 (commencing with Section 1596.60) of Division 2 of the
30 Health and Safety Code shall be deposited in a special account in
31 the General Fund that is hereby established and named the
32 Department of Justice Child Abuse Fund. Moneys in the fund
33 shall be available, upon appropriation by the Legislature, for
34 expenditure by the department to offset the costs incurred to
35 process trustline automated child abuse or neglect system checks
36 pursuant to this section.

37 (C) All moneys, other than that described in subparagraph (B),
38 received by the department pursuant to this paragraph shall be
39 deposited in a special account in the General Fund which is
40 hereby created and named the Department of Justice Sexual

1 Habitual Offender Fund. The funds shall be available, upon
2 appropriation by the Legislature, for expenditure by the
3 department to offset the costs incurred pursuant to Chapter 9.5
4 (commencing with Section 13885) and Chapter 10 (commencing
5 with Section 13890) of Title 6 of Part 4, and the DNA and
6 Forensic Identification Data Base and Data Bank Act of 1998
7 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1),
8 and for maintenance and improvements to the statewide Sexual
9 Habitual Offender Program and the DNA offender identification
10 file (CAL-DNA) authorized by Chapter 9.5 (commencing with
11 Section 13885) of Title 6 of Part 4 and the DNA and Forensic
12 Identification Data Base and Data Bank Act of 1998 (Chapter 6
13 (commencing with Section 295) of Title 9 of Part 1).

14 (c) The Department of Justice shall make available to any
15 agency responsible for placing children pursuant to Article 7
16 (commencing with Section 305) of Chapter 2 of Part 1 of
17 Division 2 of the Welfare and Institutions Code, upon request,
18 relevant information concerning child abuse or neglect reports
19 contained in the index, when making a placement with a
20 responsible relative pursuant to Sections 281.5, 305, and 361.3 of
21 the Welfare and Institutions Code. Upon receipt of relevant
22 information concerning child abuse or neglect reports contained
23 in the index from the Department of Justice pursuant to this
24 subdivision, the agency shall also notify in writing the person
25 listed in the Child Abuse Central Index that he or she is in the
26 index. The notification shall include the location of the original
27 investigative report and the submitting agency. The notification
28 shall be submitted to the person listed at the same time that all
29 other parties are notified of the information, and no later than the
30 actual judicial proceeding that determines placement.

31 If Child Abuse Central Index information is requested by an
32 agency for the placement of a child with a responsible relative in
33 an emergency situation pursuant to Article 7 (commencing with
34 Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare
35 and Institutions Code, the department is exempt from the
36 requirements of Section 1798.18 of the Civil Code if compliance
37 would cause a delay in providing an expedited response to the
38 child protective agency's inquiry and if further delay in
39 placement may be detrimental to the child.

1 (d) The department shall make available any information
2 maintained pursuant to subdivision (a) to out-of-state law
3 enforcement agencies conducting investigations of known or
4 suspected child abuse or neglect only when an agency makes the
5 request for information in writing and on official letterhead,
6 identifying the suspected abuser or victim by name. The request
7 shall be signed by the department supervisor of the requesting
8 law enforcement agency. The written requests shall cite the
9 out-of-state statute or interstate compact provision that requires
10 that the information contained within these reports shall be
11 disclosed only to law enforcement, prosecutorial entities, or
12 multidisciplinary investigative teams, and shall cite the criminal
13 penalties for unlawful disclosure of any confidential information
14 provided by the requesting state or the applicable interstate
15 compact provision. In the absence of a specified out-of-state
16 statute or interstate compact provision that requires that the
17 information contained within these reports shall be disclosed
18 only to law enforcement, prosecutorial entities, or
19 multidisciplinary investigative teams, and criminal penalties
20 equivalent to the penalties in California for unlawful disclosure,
21 access shall be denied.

22 (e) (1) Any person may determine if he or she is listed in the
23 Child Abuse Central Index by making a request in writing to the
24 Department of Justice. The request shall be notarized and include
25 the person's name, address, date of birth, and either a social
26 security number or a California identification number. Upon
27 receipt of a notarized request, the Department of Justice shall
28 make available to the requesting person information identifying
29 the date of the report and the submitting agency. The requesting
30 person is responsible for obtaining the investigative report from
31 the submitting agency pursuant to paragraph (11) of subdivision
32 (b) of Section 11167.5.

33 (2) No person or agency shall require or request another
34 person to furnish a copy of a record concerning himself or
35 herself, or notification that a record concerning himself or herself
36 exists or does not exist, pursuant to paragraph (1) of this
37 subdivision.

38 (f) If a person is listed in the Child Abuse Central Index only
39 as a victim of child abuse or neglect, and that person is 18 years
40 of age or older, that person may have his or her name removed

1 from the index by making a written request to the Department of
2 Justice. The request shall be notarized and include the person's
3 name, address, social security number, and date of birth.

4 ~~SEC. 7.~~

5 *SEC. 8.* If the Commission on State Mandates determines that
6 this act contains costs mandated by the state, reimbursement to
7 local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.

Item E

Regulation Update

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State of California
Board of Behavioral Sciences

Memorandum

To: Board Members
From: Christy Berger
Legislation Analyst
Subject: Regulation Update

Date: July 11, 2006
Telephone: (916) 574-7847

The status of regulations proposed by the Board are as follows:

Title 16, CCR Section 1886.40, Citations and Fines

These regulations would provide the board with the authority to issue a fine between \$2,501 and \$5,000 for specified violations. The final regulations were filed with the Office of Administrative Law (OAL) on June 27, 2006 for final approval.

Title 16, CCR Section 1803, Delegation of Authority to the Executive Officer

These regulations would allow the Board's executive officer to sign orders to compel a physical or mental evaluation of a Board licensee or registrant as part of an investigation of a complaint. This regulation proposal is pending a regulation hearing scheduled during the Board's meeting on July 27, 2006.

Title 16, CCR Sections 1833.3 and 1870, Supervisor Qualifications

Supervisors of registrants are currently required to have practiced psychotherapy for two out of the five years preceding any supervision. This proposal would allow supervisors to count time spent directly supervising persons who perform psychotherapy toward this requirement and delete the requirement that supervisors of MFT Interns and Trainees average 5 hours of client contact per week for two out of the five years prior to supervising. At its April 19, 2006 meeting, the Board's Policy and Advocacy Committee voted to recommend this language to the Board. The Board reviewed the proposal at its May 18, 2006 meeting and sent it back to the Committee for further work. At its June 28, 2006 meeting, the Committee recommended to the Board that the original language of the proposal be retained.

Title 16, CCR, Technical Cleanup - Licensed Educational Psychologists and Board Administration

This proposal would make technical and editorial changes to the Board's regulations in line with statutory changes proposed in SB 1475 to update the Licensed Educational Psychologist and Board administration statutes. At its June 28, 2006 meeting, the Board's Policy and Advocacy Committee recommended that the Board adopt these proposed regulations. The Board will consider the proposed regulations at its July 2006 meeting.

Title 16, CCR Sections 1806 and 1833.3, Abandonment of Application Files.

Section 1806 currently requires candidates to take an examination within one year of notification of eligibility to take the examination. Section 1833.3 currently requires applicants who fail an examination to retake that examination within one year from the date of the failure. However, candidates who fail are provided with a notice of eligibility 180 days from the date of failure, so both sections apply and reflect two different time frames. These regulations would resolve the conflict between these two sections, providing all candidates with a one-year period in which to

take an examination to avoid abandonment of their application. At its June 28, 2006 meeting, the Board's Policy and Advocacy Committee recommended that the Board adopt these proposed regulations. The Board will consider the proposed regulations at its July 2006 meeting.

Title 16, CCR, Sections 1816.7 and 1887.7, Delinquency Fees for Continuing Education Providers

This proposal would allow a registered provider of continuing education (PCE) a period of two years from the registration's expiration date in order to renew an expired PCE registration with a \$100 delinquency fee. Currently, when a PCE does not renew the registration prior to its expiration date, the registration is cancelled and a new registration must be obtained. At its June 21, 2006 meeting, the Board's Budget and Efficiency Committee recommended that the Board adopt these proposed regulations. The Board will consider the proposed regulations at its July 2006 meeting.

Title 16, CCR, Fees

This proposal would make technical changes to the Board's regulations regarding fees. These changes would conform the Board's regulations to the non-substantive statutory changes the Budget and Efficiency Committee is recommending to the Board regarding fees, renewals, and inactive licenses. At its June 28, 2006 meeting, the Board's Policy and Advocacy Committee recommended that the Board adopt these proposed regulations. The Board will consider the proposed regulations at its July 2006 meeting.

Title 16, CCR, Sections 1887(b), 1887.2(a), and 1887.3(a) Continuing Education

Licensees are currently permitted to take an unlimited amount of continuing education (CE) by conventional or online means. However, hours earned through "self-study" courses are limited to one-third of the total required CE hours. This proposal would delete the definition of a self-study course and delete the limitations regarding hours of self-study. The Consumer Protection Committee is expected to consider this proposal at a meeting in the near future.

Title 16, CCR Section 1886, Citation and Fine of Continuing Education Providers

These regulations would provide the board with the authority to issue a citation and fine to a continuing education provider. This regulation proposal is currently on hold due to staff workload considerations.

Item F

Legislation Update

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Memorandum

To: Board Members
From: Christy Berger
Legislation Analyst
Subject: Legislation Update

Date: July 10, 2006
Telephone: (916) 574-7847

Board-Sponsored Legislation

SB 1475 (Figueroa) Reorganization of LEP and Administration Statutes

This bill would reorganize and revise the Board's Administration statutes for clarity, remove obsolete provisions, and make some minor refinements. This bill would also reorganize and revise the Licensed Educational Psychologist (LEP) statutes to remove obsolete provisions, modernize statutes relating to licensure, scope of practice, continuing education, and enforcement, and would create better consistency with the Board's other practice acts. This bill would also facilitate transparency of licensure for out-of-state Licensed Clinical Social Workers. This bill is awaiting hearing in the Assembly Appropriations Committee.

AB 1852 (Yee) Licensed Mental Health Service Provider Education Program

This bill would make marriage and family therapist interns (MFT interns) and associate clinical social workers (ASW) eligible for educational loan repayment from the Licensed Mental Health Service Provider Education Program (Program). This bill would also provide technical cleanup of the Program's statute. This bill is awaiting hearing in the Senate Appropriations Committee. Staff continues to have ongoing discussions with the Office of Statewide Health Planning and Development (OSHPD) to ensure other needed changes are in place by the end of this year.

Update on Other 2006 Legislation

AB 525 (Chu) Child Abuse Reporting

This bill was originally brought before the Policy and Advocacy Committee for review at its April 2006 meeting. The Committee voted to recommend that the Board take a position of "support" on this bill. However, due to a staff error, this bill never went before the full Board for a vote. This bill, sponsored by the California Association of Marriage and Family Therapists (CAMFT), would add emotional abuse to the definition of child abuse, clarify that such a report is not mandatory, (though one reading of the bill is that it would make such a report mandatory), and establishes some technical requirements regarding the report. This bill was recently passed by the Senate Public Safety Committee, and will be heard next by the Senate Appropriations Committee.

AB 2283 (Oropeza) Physicians and Surgeons: Cultural Background and Foreign Language Proficiency

Physicians are currently permitted to report information regarding their cultural background and foreign language proficiency at the time of license renewal to the Medical Board of California (MBC). This bill would require the MBC to aggregate this information and report it on their

website, making it more accessible to consumers. The Board voted to support this bill, which is awaiting hearing in the Senate Appropriations Committee.

AB 3013 (Koretz) *Medical Information: Disclosures*

This bill would strengthen patient confidentiality laws by conforming California law to provisions of HIPAA which limit the release of patient information, provide the patient the opportunity to prohibit such a release, and permit the health care provider to make judgments regarding releases in emergency situations. The Board voted to support this bill, which is awaiting hearing in the Senate Judiciary Committee.

SB 1476 (Figueroa) *BBS Sunset*

This bill would extend the Board's sunset date by one year to July 1, 2009. It has passed the Senate and is now...

Attachment

AB 1852

AMENDED IN ASSEMBLY MAY 3, 2006

AMENDED IN ASSEMBLY APRIL 27, 2006

AMENDED IN ASSEMBLY APRIL 24, 2006

AMENDED IN ASSEMBLY MARCH 1, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1852

**Introduced by Assembly Member Yee
(Principal coauthor: Assembly Member Maze)**

January 12, 2006

An act to amend ~~Section~~ *Sections 128454 and 128456* of the Health and Safety Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1852, as amended, Yee. Licensed mental health service provider education program.

Existing law requires the Office of Statewide Health Planning and Development to establish a nonprofit public benefit corporation known as the Health Professions Education Foundation to perform various duties with respect to implementing health professions scholarship and loan programs.

Existing law establishes the Licensed Mental Health Service Provider Education Program, and requires the foundation to develop the program to provide grants to licensed mental health service providers, as defined, who provide direct patient care in a publicly funded facility or a mental health professional shortage area, as defined.

Existing law requires the foundation to solicit the advice of representatives of specified agencies and officials, including, but not limited to, the Board of Behavioral Science Examiners.

This bill would *revise the definition of “licensed mental health care practitioner” for this purpose to additionally include a marriage and family therapist intern and an associate clinical social worker, and would make a technical, nonsubstantive change.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 128454 of the Health and Safety Code is
2 amended to read:

3 128454. (a) There is hereby created the Licensed Mental
4 Health Service Provider Education Program within the Health
5 Professions Education Foundation.

6 (b) For purposes of this article, the following definitions shall
7 apply:

8 (1) “Licensed mental health service provider” means a
9 psychologist, marriage and family therapist, ~~and marriage and~~
10 *family therapist intern*, licensed clinical social worker, *and*
11 *associate clinical social worker.*

12 (2) “Mental health professional shortage area” means an area
13 designated as such by the Health Resources and Services
14 Administration (HRSA) of the United States Department of
15 Health and Human Services.

16 (c) Commencing January 1, 2005, any licensed mental health
17 service provider who provides direct patient care in a publicly
18 funded facility or a mental health professional shortage area may
19 apply for grants under the program to reimburse his or her
20 educational loans related to a career as a licensed mental health
21 service provider.

22 (d) The Health Professions Education Foundation shall make
23 recommendations to the director of the office concerning all of
24 the following:

25 (1) A standard contractual agreement to be signed by the
26 director and any licensed mental health service provider who is
27 serving in a publicly funded facility or a mental health
28 professional shortage area that would require the licensed mental

1 health service provider who receives a grant under the program
2 to work in the publicly funded facility or a mental health
3 professional shortage area for at least one year.

4 (2) The maximum allowable total grant amount per individual
5 licensed mental health service provider.

6 (3) The maximum allowable annual grant amount per
7 individual licensed mental health service provider.

8 (e) The Health Professions Education Foundation shall
9 develop the program, which shall comply with all of the
10 following requirements:

11 (1) The total amount of grants under the program per
12 individual licensed mental health service provider shall not
13 exceed the amount of educational loans related to a career as a
14 licensed mental health service provider incurred by that provider.

15 (2) The program shall keep the fees from the different licensed
16 providers separate to ensure that all grants are funded by those
17 fees collected from the corresponding licensed provider groups.

18 (3) A loan forgiveness grant may be provided in installments
19 proportionate to the amount of the service obligation that has
20 been completed.

21 (4) The number of persons who may be considered for the
22 program shall be limited by the funds made available pursuant to
23 Section 128458.

24 ~~SECTION 1.~~

25 *SEC. 2.* Section 128456 of the Health and Safety Code is
26 amended to read:

27 128456. In developing the program established pursuant to
28 this article, the Health Professions Education Foundation shall
29 solicit the advice of representatives of the Board of Behavioral
30 Sciences, the Board of Psychology, the State Department of
31 Mental Health, the California Mental Health Directors
32 Association, the California Mental Health Planning Council,
33 professional mental health care organizations, the California
34 Healthcare Association, the Chancellor of the California
35 Community Colleges, and the Chancellor of the California State
36 University. The foundation shall solicit the advice of
37 representatives who reflect the demographic, cultural, and
38 linguistic diversity of the state.

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Item G

Strategic Plan Update

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**State of California
Board of Behavioral Sciences**

Memorandum

To: Board Members

Date: July 11, 2006

**From: Paul Riches
Executive Officer**

Telephone: (916) 574-7840

Subject: Strategic Plan Update

Background

The board formally adopted the new strategic plan at its November 2005 meeting. As part of the implementation of the strategic plan, each committee will receive a progress update on the strategic objectives under its jurisdiction. This regular exchange of information provided will provide mutual accountability between staff and board members in accomplishing our shared objectives.

Update on Objectives

Objective 4.1 -- Participate in 15 public policy forums throughout the State addressing access to mental health services by June 30, 2010.

On March 23-24, 2006 Mr. Riches attended the meeting of the Mental Health Services Oversight and Accountability Commission in Sacramento (commission). The commission is responsible for oversight of the Mental Health Services Act (Proposition 63). The meeting included organizational matters for the commission and presentations on prevention and early intervention in mental illness which is a major focus of Proposition 63.

The board will be actively participating with the MHSA Education and Training initiative. This initiative will be developing the plan for spending MHSA revenues dedicated to building the mental health workforce. This initiative has an advisory group (where the board is represented by Peter Manoleas) which has formed nine workgroups to write elements of the plan. The board is actively participating in the following workgroups:

1. Needs Assessment [Mona Maggio]
 6. Distance Learning [Christy Berger]
 8. Post Secondary Education and Training [Judy Johnson]
 9. Licensing and Certification [Paul Riches]
- On June 12, 2006 Ms. Maggio attended the initiative's Needs Assessment workgroup.
 - On June 28, 2006 Ms. Berger will attend the Distance Learning workgroup.
 - On July 6, 2006, Ms. Johnson will attend the Post-Secondary Education/Training workgroup.
 - On July 12, 2006, Mr. Riches will attend the Licensing and Certification workgroup.
 - On July 19, 2006, Mr. Manoleas will attend the Advisory Committee meeting.

These workgroups will be conducting meetings on an ongoing basis to develop the draft plan.

Objective 4.2 -- Develop 4 proposals related to behavioral science licensing law that address delivery of services to consumers in light of demographic changes in both the general and licensee populations by December 31, 2007.

A board sponsored conference on diversity issues in professional licensing will be held on Friday, April 28 in Sacramento. The conference will feature state and national experts in demography and cultural competence in mental health care as well as working sessions designed to provide feedback and suggestions for the board's consideration. A report on the conference was provided at the May 18-19, 2006 board meeting. Staff is working through suggestions from that conference to begin developing proposals for board committees to consider.

Objective 4.3 -- Advocate for 5 laws that expand access to mental health services by June 30, 2010.

No action to report.

AVAILABILITY OF MODIFIED TEXT

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences has proposed modifications to the text of Section 1803 in Title 16 of the California Code of Regulations which were the subject of a regulatory hearing on May 18, 2006. A copy of the modified text is enclosed. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Hilton San Diego Airport/Harbor Island, 1960 Harbor Island Drive, San Diego, California, 92101, at 1:00 p.m. on Thursday, July 27, 2006. Written comments must be received by the Board at its office including those sent by mail, facsimile, or email to the address listed under Contact Person in this notice not later than 5:00 p.m. on July 27, 2006, or must be received by the Board at the hearing.

Contact Person: Christy Berger
Board of Behavioral Sciences
1625 North Market Blvd Suite S200
Sacramento CA 95834
Email: christy_berger@dca.ca.gov
Fax: (916) 574-8625

DATED: May 23, 2006

Paul Riches, Executive Officer

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BOARD OF BEHAVIORAL SCIENCES
Modified Text

Amend Section 1803 of Division 18 of Title 16 as follows:

§1803. Delegation of Certain Functions

The power and discretion conferred by law upon the board to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing, issue orders compelling psychiatric examination an evaluation of a licensee's physical or mental condition in accordance with Section 820 of the Business and Professions Code and perform other functions necessary to the efficient dispatch of the business of the board in connection with proceedings under the provisions of Section 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated to and conferred upon the executive officer, or, in his or her absence from the office of the board, the acting executive officer.

Note:

Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code.

Reference: Sections 820, 4980.07, 4990.8 and 4990.13, Business and Professions Code; and Section 11500-11528, Government Code.

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State of California
Board of Behavioral Sciences

Memorandum

To: Board Members
From: Christy Berger
Legislation Analyst
Date: July 10, 2006
Telephone: (916) 574-7847
Subject: Review and Possible Action on Proposed Amendments to 16CCR1803,
Regarding Delegation to the Executive Officer

Proposed (Modified) Language, 16CCR1803

The power and discretion conferred by law upon the board to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing, issue orders compelling psychiatric examination an evaluation of a licensee's physical or mental condition in accordance with Section 820 of the Business and Professions Code and perform other functions necessary to the efficient dispatch of the business of the board in connection with proceedings under the provisions of Section 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated to and conferred upon the executive officer, or, in his or her absence from the office of the board, the acting executive officer.

Background

The executive officer is employed by the board and performs those duties and functions delegated by the board and specified by statute. California Code of Regulations Title 16, Section 1803 explicitly delegates a number of functions related to enforcement processes to the executive officer including the ability to:

- File accusations
- Issue notices of hearing
- Issue statements of issues
- Receive and file notices of defense
- Issue subpoenas and subpoenas duces tecum;
- Set and calendar cases for hearing.

A recent case called into question the means by which an order to compel a psychiatric evaluation can be issued. Past practice at the BBS and other licensing boards was to have the order signed by the board chair. It was determined that such an order is an investigatory function and should not be performed by board members who serve as judges in the administrative adjudication process. Due process requires that the investigatory function and the adjudication function be separate and performed by different parties.

Subsequent to this determination, the board chair signed a general delegation to the executive officer to sign orders to compel a psychiatric evaluation. However, that delegation should be formalized by including it as part of Section 1803.

History

At its November 2005 meeting, the board directed staff to pursue a regulation change to amend Section 1803 to formally delegate this function to the executive officer. Additional time for public comment was provided at the January 2006 meeting of the Policy and Advocacy Committee. The initial comment period for the proposed regulation closed on March 27, 2005.

At its April 2006 meeting, the Policy and Advocacy Committee recommended that the Board adopt slightly modified language that is consistent with Section 820 of the Business and Professions Code. The Board approved the modified text and held a regulation hearing at its May 2006 meeting. A 15-day notice of modified text was mailed to the board's public mailing list, and another hearing is scheduled for the July 27, 2006 Board meeting.

The California Association of Marriage and Family Therapists (CAMFT) has provided written and oral comment expressing concern that this proposal would delegate too much authority to one person, and that it violates due process for "no valid reason." The Board's counsel prepared a response to the issues raised in CAMFT's letter dated February 14, 2006. Both are included as attachments to this memo, as well as additional letters from CAMFT regarding this proposal.

Attachments

Initial Statement of Reasons

Business and Professions Code Section 820 et seq.

Comment from CAMFT dated February 14, 2006

Response to CAMFT from Board Counsel dated April 19, 2006

Comment from CAMFT dated May 1, 2006

Comment from CAMFT dated May 11, 2006

Comment from CAMFT dated July 3, 2006

Attachment A

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**BOARD OF BEHAVIORAL SCIENCES
INITIAL STATEMENT OF REASONS**

HEARING DATE: N/A

SUBJECT MATTER OF PROPOSED REGULATIONS: DELEGATION OF AUTHORITY TO
COMPEL PSYCHIATRIC
EVALUATIONS

SECTIONS AFFECTED: Section 1803 of Division 18 of Title 16 of the California Code of Regulations

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL:

Section 1803 delegates a number of functions related to the Board's enforcement processes to the Board's executive officer.

The proposal would amend Section 1803 to additionally allow the executive officer to sign orders to compel a psychiatric evaluation of a Board licensee or registrant as part of an investigation of a complaint.

Past practice at the Board and other licensing boards was to have the order signed by the Board chair. However, it was determined that such an order is an investigatory function and should not be performed by Board members who also serve as judges in the administrative adjudication process. Due process requires that the investigatory function and the adjudication function be separate and performed by different parties.

FACTUAL BASIS/NECESSITY

This proposal is reasonably necessary in order to provide the Board's executive officer with the authority to sign orders to compel a psychiatric evaluation, as the executive officer does not currently have that authority.

UNDERLYING DATA / MATERIALS RELIED UPON:

None.

BUSINESS IMPACT

The proposed regulations will not have a significant adverse economic impact on businesses.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed regulations do not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulation.

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Attachment B

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BUSINESS AND PROFESSIONS CODE

SECTION 820-828

820. Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

821. The licentiate's failure to comply with an order issued under Section 820 shall constitute grounds for the suspension or revocation of the licentiate's certificate or license.

821.5. (a) A peer review body, as defined in Section 805, that reviews physicians and surgeons, shall, within 15 days of initiating a formal investigation of a physician and surgeon's ability to practice medicine safely based upon information indicating that the physician and surgeon may be suffering from a disabling mental or physical condition that poses a threat to patient care, report to the diversion program of the Medical Board the name of the physician and surgeon under investigation and the general nature of the investigation. A peer review body that has made a report to the diversion program under this section shall also notify the diversion program when it has completed or closed an investigation.

(b) The diversion program administrator, upon receipt of a report pursuant to subdivision (a), shall contact the peer review body that made the report within 60 days in order to determine the status of the peer review body's investigation. The diversion program administrator shall contact the peer review body periodically thereafter to monitor the progress of the investigation. At any time, if the diversion program administrator determines that the progress of the investigation is not adequate to protect the public, the diversion program administrator shall notify the chief of enforcement of the Division of Medical Quality of the Medical Board of California, who shall promptly conduct an investigation of the matter. Concurrently with notifying the chief of enforcement, the diversion program administrator shall notify the reporting peer review body and the chief executive officer or an equivalent officer of the hospital of its decision to refer the case for investigation by the chief of enforcement.

(c) For purposes of this section "formal investigation" means an investigation ordered by the peer review body's medical executive committee or its equivalent, based upon information indicating that the physician and surgeon may be suffering from a disabling mental or physical condition that poses a threat to patient care. "Formal investigation" does not include the usual activities of the well-being or assistance committee or the usual quality assessment and improvement activities undertaken by the medical staff of a health facility in compliance with the licensing and certification requirements for health facilities set forth in Title 22 of the California Code of Regulations, or preliminary deliberations or inquiries of the executive committee to determine whether to order a formal investigation.

For purposes of this section, "usual activities" of the well-being or assistance committee are activities to assist medical staff members who may be impaired by chemical dependency or mental illness to obtain necessary evaluation and rehabilitation services that do not result in referral to the medical executive committee.

(d) Information received by the diversion program pursuant to this section shall be governed by, and shall be deemed confidential to the same extent as program records under, Section 2355. The records shall not be further disclosed by the diversion program, except as provided in subdivision (b).

(e) Upon receipt of notice from a peer review body that an investigation has been closed and that the peer review body has determined that there is no need for further action to protect the public, the diversion program shall purge and destroy all records in its possession pertaining to the investigation unless the diversion program administrator has referred the matter to the chief of enforcement pursuant to subdivision (b).

(f) A peer review body that has made a report under subdivision (a) shall not be deemed to have waived the protections of Section 1157 of the Evidence Code. It is not the intent of the Legislature in enacting this subdivision to affect pending litigation concerning Section 1157 or to create any new confidentiality protection except as specified in subdivision (d). "Pending litigation" shall include *Arnett v. Dal Cielo* (No. S048308), pending before the California Supreme Court.

(g) The report required by this section shall be submitted on a short form developed by the board. The board shall develop the short form, the contents of which shall reflect the requirements of this section, within 30 days of the effective date of this section. The board shall not require the filing of any report until the short form is made available by the board.

(h) This section shall become operative on January 1, 1997, unless the regulations required to be adopted pursuant to Section 821.6 are adopted prior to that date, in which case this section shall become operative on the effective date of the regulations.

821.6. The board shall adopt regulations to implement the monitoring responsibility of the diversion program administrator described in subdivision (b) of Section 821.5, and the short form required to be developed pursuant to subdivision (g), on or before January 1, 1997.

822. If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

823. Notwithstanding any other provisions of law, reinstatement of a licentiate against whom action has been taken pursuant to Section 822 shall be governed by the procedures in this article. In reinstating a certificate or license which has been revoked or suspended under Section 822, the licensing agency may impose terms and conditions to be complied with by the licentiate after the certificate or license has been reinstated. The authority of the licensing agency to impose terms and conditions includes, but is not limited to, the following:

- (a) Requiring the licentiate to obtain additional professional training and to pass an examination upon the completion of the training.
- (b) Requiring the licentiate to pass an oral, written, practical, or clinical examination, or any combination thereof to determine his or her present fitness to engage in the practice of his or her profession.
- (c) Requiring the licentiate to submit to a complete diagnostic examination by one or more physicians and surgeons or psychologists appointed by the licensing agency. If the licensing agency requires the licentiate to submit to such an examination, the licensing agency shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons or psychologists of the licentiate's choice.
- (d) Requiring the licentiate to undergo continuing treatment.
- (e) Restricting or limiting the extent, scope or type of practice of the licentiate.

824. The licensing agency may proceed against a licentiate under either Section 820, or 822, or under both sections.

825. As used in this article with reference to persons holding licenses as physicians and surgeons, "licensing agency" means a panel of the Division of Medical Quality.

826. The proceedings under Sections 821 and 822 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the licensing agency and the licentiate shall have all the rights and powers granted therein.

827. Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, the licensing agency may convene in closed session to consider any evidence relating to the licentiate's mental or physical illness obtained pursuant to the proceedings under Section 820. The licensing agency shall only convene in closed session to the extent that it is necessary to protect the privacy of a licentiate.

828. If the licensing agency determines, pursuant to proceedings conducted under Section 820, that there is insufficient evidence to bring an action against the licentiate pursuant to Section 822, then all licensing agency records of the proceedings, including the order for the examination, investigative reports, if any, and the report of the physicians and surgeons or psychologists, shall be kept confidential and are not subject to discovery or subpoena. If no further proceedings are conducted to determine the licentiate's fitness to practice during a period of five years from the date of the determination by the licensing agency of the proceeding pursuant to Section 820, then the licensing agency shall purge and destroy all records pertaining to the proceedings. If new proceedings are instituted during the five-year period against the licentiate by the licensing agency, the records, including the report of the physicians and surgeons or psychologists, may be used in the proceedings and shall be available to the respondent pursuant to the provisions of Section 11507.6 of the Government Code.

Attachment C

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February 14, 2006

Members of the Board
Christy Berger
Mona Maggio
Board of Behavioral Sciences
1625 North Market Blvd., Suite S-200
Sacramento CA 95834
Christy_berger@dca.ca.gov
Mona_maggio@bbs.ca.gov

RE: Proposed Regulatory Change to Section 1803, Division 18 of Title 16 of the California Code of Regulations, Regarding Delegation of Certain Functions to the Executive Office—i.e., Delegating Authority to Compel Psychiatric Evaluations

Dear Members of the Board, Ms. Berger and Ms. Maggio:

We wish to go on record in opposition to the proposal to modify the regulation giving authority to the Executive Officer of the BBS to “issue orders compelling psychiatric examinations in accordance with Section 820 of the Business and Professions Code.” Our opposition is both technical and substantive. **We hereby request a public hearing on this proposed regulation.**

NECESSITY – Board’s determination re: due process is contradicted by the law.

The Board states in its *Initial Statement of Reasons* that a) it was determined that an order under Section 820 of the Business and Professions Code is an investigatory function and *should not be performed by board members who also serve as judges in the administrative adjudication process*, and b) *due process requires* that the investigatory function and the adjudication function be separate and performed by different parties.

The Legislature (the law) disagrees with both notions. Section 825 of the Business and Professions Code provides:

“The licensing agency may proceed against a licensee under either section 820, or 822, **or under both sections** (emphasis ours).”

Section 822 allows the board to revoke or suspend if they determine that the licentiate's ability to practice safely is impaired by mental illness or physical illness affecting competency. **Thus, the Legislature addressed this issue and gave the power to the Board (the licensing agency) to order the examination (Section 820) and then to make a determination (Section 822)** based upon the outcome of the exam and other evidence. The *Legislature expressly authorizes* the same agency to proceed under 820 and 822 – *investigatory and adjudicatory*.

If one is to take the Board at its word, then the process used (for the last decade or more) has been in violation of the due process rights of licentiates. Is this actually the position of the Board? Who made this determination and when? Is there a written legal opinion regarding this matter?

REFERENCE/AUTHORITY

Section 4980.07, cited as reference for the regulation, says that: "The board shall administer the provisions of this chapter." It says nothing about a delegation of power. However, a delegation of power is mentioned in Section 4990.8, also cited as reference, but that section does not apply to MFTs (Chapter 13). It applies only to Chapter 14 – the LCSW licensing law. Section 4990.13, also cited as reference, is also found in Chapter 14 – applicable to LCSWs. These two sections (4990.8 and 4990.13) have no application to the provisions of Chapter 13. The fact that only the Board is mentioned in Section 4980.07 is noteworthy. It doesn't say "or its delegatee."

Section 4980.07 would need to be amended by the Legislature in order to allow for a delegation to the executive officer of such an awesome power as the power to order an examination for suspected mental illness, for example. To vest this power in one person, without any built-in safeguards, seems unnecessary and somewhat dangerous. If such a delegation is sought, it ought to be through the legislative process. In fact, the Board should seek legislation similar to Section 825 of the Code, where a panel is authorized by the law to act in place of the "licensing agency" (applicable to physicians).

CLARITY

The Board's proposed regulation seeks to add the phrase "psychiatric examination." The law (Section 820) refers to an examination by one or more physicians and surgeons or psychologists re: impairment of the ability to practice due to mental illness or physical illness affecting competency. The proposed regulation, were it to move forward, should describe the examination as it is described in the statute and not by use of the words "psychiatric examination." Use of those words is actually more limiting – it seemingly prevents orders for physical (non-psychiatric) examinations where physical illness may affect competency.

QUESTION TO PONDER

If the Board has the authority to delegate to the Executive Officer the power to act on their behalf under Section 820, why doesn't it follow that they have the authority to delegate to the Executive Officer under 822 as well? Such a result would be absurd.

These orders are typically issued from the Board after a factual showing that a licensee is impaired due to mental illness. The licensee has an opportunity to respond. While the process may still require such a showing and a response, it appears to give a much greater opportunity for abuse when such authority is granted to a single person. One individual given the responsibility to make such a significant decision versus the members of the Board, where a majority of a quorum would be needed, seems to be delegating too much authority to one person, and creating too great an opportunity for this authority to be abused. Even the Medical Board utilizes the decision of a panel of the Board to make such a significant decision.

We respectfully request that this proposed regulation be withdrawn. Thank you for the opportunity to be heard on this important matter.

Sincerely,

Mary Riemersma
Executive Director

Cc: Paul Riches, Executive Officer

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Attachment D

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Memorandum

**To: Members of the Board
of Behavioral Sciences**

Date: April 13, 2006

Telephone: (916) 574-8220

FAX: (916) 574-8623

**From: George P. Ritter
Senior Staff Counsel**

**Subject: Response to Comments Concerning Delegation of Authority for
Ordering Psychiatric Examinations to the Executive Officer**

I. BACKGROUND

Business and Professions Code Section 820 permits the Board to order a psychiatric examination of a licensee when it appears that his or her ability to practice is impaired due to mental illness. The Board now proposes through a regulation change to delegate the function of ordering these examinations to its Executive Officer. The California Association of Marriage and Family Therapists (CAMFT) has submitted comments in opposition to this proposed change. These comments are addressed below.

II. CONSISTENCY

Business and Professions Code Section 820 provides in part that:

Whenever it appears that any person holding a license . . . may be unable to practice his or her profession safely because of [mental or physical impairment], the licensing agency may order the licensee to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licensee and may be received as direct evidence in proceedings conducted pursuant to Section 822.

Section 822, in turn, provides that:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take [appropriate administrative] action [that would revoke, suspend or limit the licentiate's right to practice].

CAMFT correctly observes that the Legislature expressly authorized the Board to conduct both functions. Section 824 provides that: "The licensing agency may proceed against a licentiate under either section 820, or 822, or under both sections." Because the Legislature has delegated to the Board the authority to perform both functions, CAMFT apparently presumes no further delegation of either is legally possible.

This presumption is contrary to the basic law of delegation of administrative authority. For example, Government Code § 11500(a) provides that:

'Agency' includes the state boards, commissions, and officers to which this chapter is made applicable by law, except that wherever the word 'agency' alone is used *the power to act may be delegated by the agency*, and wherever the words 'agency itself' are used the power to act shall not be delegated unless the statutes relating to the particular agency authorize the delegation of the agency's power to hear and decide.

Likewise, Government Code § 11182 provides that:

The head of a department may delegate the powers conferred upon him . . . to any officer of the department he authorizes to conduct the investigation or hearing.

Thus, the fact that a function has been delegated by the Legislature does not per se mean no further delegation can occur. Rather, the particulars of the delegation have to be analyzed in order to determine its legality.

III. NECESSITY

The stated reason for the regulatory change is to avoid the problem of having Board members who may later hear a disciplinary matter involved in its investigation. CAMFT apparently takes the position that because the Legislature authorized “the same agency” to perform both investigatory and adjudicatory functions, there is no need to alter this arrangement.

While it is true that administrative agencies perform both investigatory and adjudicatory functions, this in no way implies that the same *individuals* within the agency can do both. If that occurs, there is a high probability that the licensee’s Due Process rights will be violated. (See *Nightlife Partners, Ltd. v. City of Beverley Hills*, 108 Cal. App. 4th 81, 133 Cal. Rptr. 234 (2003) (Due process rights of nightclub were violated when City Attorney who represented the City in litigation against the nightclub also advised City officials hearing nightclub’s appeal of the denial of its license.)

Second, CAMFT postulates that if one accepts this proposition, then the Board has “for the last decade or more . . . has been in violation of the due process rights of licentiates.” Even assuming this were the case, CAMFT can hardly take the position that the Board should permit such violations to *continue* and take no action to correct the problem.

IV. AUTHORITY

Chapter 13 of the Board’s enabling legislation regulates Marriage and Family Therapists (MFTs). CAMFT correctly points out that there is no provision in this Chapter that permits delegation of any authority to the Executive Officer. Section 4980.07 merely states that: “The Board shall administer the provisions of [Chapter 13].” CAMFT notes that the other provisions permitting delegation are found in Chapter 14. But that Chapter only applies to Licensed Clinical Social Workers. (See B. & P. Code §§ 4990.8 & 4990.13.) CAMFT thus concludes that the Board has no power to delegate any of its authority with respect to MFTs to the Executive Officer under Chapter 13.

There are two reasons why CAMFT’s position is not legally sound. First, the Board does have the express statutory authority to delegate its investigatory functions. Second, the Board also has the implied authority to do so.

A. Express Delegation of Investigatory Authority

Even though the Board is a part of the Department of Consumer Affairs:

[It] exists as a separate unit, and has the functions of setting standards, holding meetings, . . . preparing and conducting examinations, passing upon applicants, conducting investigations of violations of laws ***under its jurisdiction*** . . . in so far as those powers are given by statute to each respective board. (B. & P. Code § 108.)

Likewise:

The boards, bureaus, and commissions in the department * * * * provide a means for redress of grievances by investigating allegations of unprofessional conduct, incompetence, fraudulent action, or unlawful activity brought to their attention by members of the public (B. & P. Code § 101.6.)

In addition, Government Code Section 11180 provides in part that:

The head of each department may make investigation and prosecute actions concerning:

(a) All matters relating to the business activities and subjects under the jurisdiction of the department. . . .

This investigatory power includes the ability to issue administrative subpoenas. (Govt. Code § 11181.)

Boards within the Department of Consumer Affairs have consistently been recognized as possessing the investigatory powers conferred by Government Code Sections 11180 and 11181. In *Board of Medical Quality Assurance v. Hazel Hawkins Memorial Hospital*, 135 Cal. App. 3d 561, 565, 185, Cal. Rptr. 405 (1982), the validity of administrative subpoenas issued by the Medical Board was at issue. The Court noted that:

There is no question, but that the inquiry by [the Medical Board] is one that it is authorized to make. (See [B. & P. Code] §§ 101.6, 108; ***Gov. Code, §§ 11180 et seq.***)

In *Arnett v. Dal Cielo*, 14 Cal. 4th 4, 7 - 8, 56 Cal. Rptr. 2d 706 (1996), the California Supreme Court observed that:

We deal here, however, with a tool that the Board has possessed at least since 1921; the investigative subpoena. (. . . Stats. 1945, ch. 111, § 3, p. 439 [recodifying former Pol.Code, § 353, as Gov. Code, § 11181].)

* * * *

Because the statute authorizes the Board to issue a subpoena ‘in any inquiry [or] investigation’ (Gov. Code § 11181, subd. (e)), the Board may do so for purely investigative purposes (See also *Division of Medical Quality v. Gherardini*, 93 Cal. App. 3d 669, 673, 156 Cal. Rptr. 55 (1979) (Court acknowledged that Board’s investigatory power stemmed in part from Government Code Sections 11180 and 11181). 9 Ops. A.G. 35, 37 (1947) (Power of DCA boards to investigate under Section 11180 recognized by the Attorney General).)

The Legislature has expressly provided that the investigative power under Sections 11180 and 11181 may be delegated. Section 11182 provides that:

The head of a department may delegate the powers conferred upon him by this article to any officer of the department he authorizes to conduct the investigation or hearing.

The Medical Board’s authority to delegate these powers has also been recognized by the California Supreme Court.

[T]he Board’s investigators are authorized to exercise delegated powers . . . to ‘Inspect books and records’ and to ‘Issue subpoenas . . . in any inquiry [or] investigation’ (*Arnett v. Dal Cielo*, 14 Cal. 4th at 8, citing § 11182.)

B. Implied Delegation of Investigatory Authority

The Board also has the inherent or implied legal power to delegate investigatory functions to its Executive Officer even in the absence of any express statutory authority from the Legislature. The general rule is that:

[A] delegated power, when made subject to the [agency's] judgment or discretion, is purely personal and may not be further delegated in the absence of express statutory authorization. . . . [However,] [m]erely administrative and ministerial functions may be delegated to assistants whose employment is authorized [B]ut there is no authority to delegates acts discretionary or quasi-judicial in nature. An administrative board cannot legally confer upon its employees authority that under the law may be exercised only by the board. (*Schechter v. County of Los Angeles*, 258 Cal. App. 2d 391, 65 Cal. Rptr. 739, 742 (1968).)

The scope of the authority which could be delegated was clarified by the California Supreme Court in *California School Employees Ass'n. v. Personnel Cmm'n.*, 3 Cal. 3d 139, 144, 89 Cal. Rptr. 620 (1970). It noted that:

As a general rule, powers conferred upon public agencies and officers which involve the exercise of judgment or discretion are in the nature of public trusts and cannot be surrendered or delegated to subordinates in the absence of statutory authorization. [Citations.]

On the other hand, public agencies may delegate the performance of ministerial tasks, including the investigation and determination of facts preliminary to agency action. [Emphasis added.]

The same rule was applied in *Levesahl v. Byington*, 1 Cal. App. 2d 671, 37 P.2d 179 (1934). The issue was whether the Civil Service Commission of San Francisco could delegate its investigatory powers to the Chief of Police. The Court noted the City Charter expressly gave the Commission this power. But it went on to hold that:

Even in [the] absence of such express authority, the commission would have implied power to employ him. . . . Section 7 of [an article in the Charter], however, imposed the duty of determining respondent's moral character . . . upon the commission. The performance of this duty it could not delegate. . . . ***But the wording of the proviso shows no illegal delegation of power but merely the lawful employment of the chief of police to gather information for the use of the commission in discharging its duty.*** (1 Cal. App. 2d at 676 [Emphasis added].)

This is precisely the type of investigatory and adjudicatory procedures envisioned under Sections 820 and 822 of the Business and Professions Code. Section 820 concerns the investigation of a licensee. No action is taken by the Board under this Section. The investigation of a licensee's mental or physical condition is only a preliminary step. The results of the examination can then be used in any adjudicatory "proceedings conducted pursuant to Section 822." Any action the Board then takes under that Section cannot be delegated. By contrast, the investigatory phase involving fact-gathering and conducting examinations can be.

V. SCOPE OF DELEGATION

CAMFT notes a disparity between the scope of examinations referred to in Section 820 and those the Executive Officer is delegated to order in the proposed regulation. Section 820 provides for examinations because of suspected mental or physical impairment. Yet only psychiatric examinations are referred to in the regulations.

As an administrative agency, the Board can make the terms of its regulation more specific than those in the statute. (See Govt. Code § 11342.600 - A "Regulation" "makes specific" statutory law.) Likewise, the Board is under no obligation to delegate everything even though it may be legally permissible to do so. At the same time, if the Board chooses to delegate, it seems to make little sense to delegate only with respect to one type of examination but not the other.

VI. CONCLUSION

The distinction concerning administrative versus discretionary functions is critical. Once it is grasped, then the answer to the question raised by CAMFT in its last comment should be apparent. The Board has the power to delegate administrative or investigatory functions conducted under Section 820. It cannot, however, delegate its authority to hear and rule on adjudicatory cases brought under Section 822.

cc:

Paul Riches

Christy Berger

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Attachment E

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May 1, 2006

Board of Behavioral Sciences
1625 North Market Boulevard, Suite S200
Sacramento, CA 95834

Re: Proposed Amendment to Section 1803 in Title 16 of the CCR

Dear Members of the Board:

CAMFT has previously submitted a letter in opposition to the proposed amendment to the above-referenced regulation. That letter was dated February 14, 2006, and I assume that it will be included in the materials submitted to the Office of Administrative Law. This letter is in further opposition to the proposal and is also in response to the memorandum to the Board from George P. Ritter, dated April 19, 2006.

CONSISTENCY

Under the section of the Ritter memorandum entitled "Consistency" (pages one and two), it is acknowledged, as CAMFT points out in its letter to the Board dated February 14, 2006, that the Legislature expressly authorized the licensing agency (in this case, the Board of Behavioral Sciences) to conduct both functions – that is, to **order** a psychiatric exam and take subsequent disciplinary action if warranted by the facts and circumstances. The Legislature did not expressly authorize the Executive Officer to conduct either function nor did it expressly provide for a delegation of the power to others. In fact, the legislative intent appears otherwise.

With regard to physicians and surgeons, for instance, the Legislature specifically says (in Section 825 of the Business and Professions Code) that the term "licensing agency" means a panel of the Division of Medical Quality. A thorough reading of Sections 820 through 828 strongly suggests that the intent of the Legislature was that licensing agencies (e.g., the Board) perform these functions. The Ritter memorandum then cites Section 11500 of the Government Code as support for its position that the power to **order** a psychiatric exam can be delegated to the Executive Officer. **That section of the law does not support such a delegation.**

First, the definitions contained in 11500(a) are for the purposes of that chapter only, which applies specifically to the filing of the Accusation, the notice of defense, discovery, and the administrative hearing and decision. **That chapter (includes Section 11500) has no application to an order for a psychiatric exam under section 820 of the Business and Professions Code. More specifically, Section 826 of the Business and Professions Code provides that the definitions contained in Section 11500 of the Government Code apply to proceedings under 821 and 822** (no reference to Section 820 is made). Moreover, the definitions of “agency” and “agency” itself” in Section 11500(a) have no direct relevance to the meaning of the term “licensing agency,” as used in Section 820. The term “licensing agency” is not addressed in Section 11500(a).

NECESSITY

Under the section of the Ritter memorandum entitled “necessity” (page 3), it is suggested that “CAMFT can hardly take the position” that the Board should permit violations of due process to continue, assuming that due process is compromised by the fact that the same *individuals* are involved with the functions under Sections 820 and 822 of the Business and Professions Code. To the contrary – we take the position that for the last two decades, when the Board was presumably doing what the Legislature intended and authorized in Sections 820 and 822, there was no due process problem.

The suggestion that there is a high probability that a licensee’s due process rights will be violated because the *individuals* involved in both functions are the same (all eleven Board members, for example), is rather curious and troubling. **The threat to a licensee’s due process is apparent in delegating the power to order a psychiatric exam from the Board (where a showing has to be made to a regulatory body) and giving it to one individual (not a board member) who can decide, without scrutiny, to issue an order of such magnitude.**

Additionally, it is illogical and directly in conflict with the law to suggest that if the same individuals are involved (Board members) in ordering an exam (Section 820) and in ultimately revoking the license (Section 822), there is any due process problem. **The Legislature expressly states in a separate statute that the licensing agency may proceed against a licensee under either section 820, or 822, or both. Did the Legislature not realize that the same individuals would be involved in both functions because the licensing agency is made up of individual board members? Note that the law also provides that the licensing agency is the entity charged with the duty to receive evidence prior to a reinstatement of a license – yet another process!**

Further, it is our position that the attorneys for the Department of Consumer Affairs Legal Office properly advised the BBS and the other boards within the Department for

the past twenty years when the **Boards** ordered psychiatric and physical exams and took disciplinary action, when appropriate. **If it is in fact a violation of due process for the Board to perform both functions, as asserted in the Board's Initial Statement of Reasons for this proposed regulation, then all Boards should forthwith act to amend existing law. Let the Department of Consumer Affairs rush to the Legislature and bring the fact of such due process violations over the past twenty years to their attention. Further, let the Department express its desire to remedy the alleged due process problem by providing for a delegation of the power to issue such orders to Executive Officers.**

AUTHORITY

Under the section of the Ritter memorandum entitled "authority" (pages three through seven), it is interesting to note the reference on page six to the case of *Schechter v County of Los Angeles*, wherein it is stated: "... there is no authority to delegate acts discretionary or quasi-judicial in nature." **Ordering a psychiatric exam, we strongly suggest, is both a discretionary act and it is quasi-judicial in nature.** It is not a mere administrative or ministerial act, which may be delegated as per the *Schechter* case.

The Ritter memorandum describes the investigation of a licensee's mental condition as "only a preliminary step" (first paragraph on page seven). Further, he asserts that "no action is taken by the Board" under Section 820. Yet, the action that the Board takes under Section 820 is to issue an order for a psychiatric exam by one or more physicians and surgeons or psychologists designated by the agency. This may only be done if it appears that a licensee is not only mentally or physically impaired, but that such impairment may affect the licensee's ability to practice his or her profession safely. Further, the report of the examiners can be used as direct evidence in license revocation proceedings. This is not a mere administrative or ministerial act!

The authorities cited by the Board for this proposed regulation are Section 4980.60 (MFT) and Section 4990.14 (LCSW) of the Business and Professions Code. Neither of these sections gives the Board the necessary authority. **Each of these sections gives the Board the authority to adopt regulations as may be necessary to enable it to carry into effect the provisions of Chapter 13 (MFT licensing law) and Chapter 14 (LCSW licensing law) of the Code.** It should be noted that any action taken under Section 822 of the Business and Professions Code is not considered to be "unprofessional conduct," either under the respective licensing laws or by Sections 820 through 828 of the Business and Professions Code.

SCOPE OF DELEGATION

Under the section of the Ritter memorandum entitled "scope of delegation" (page seven), it is stated that the board can make the terms of its regulations more specific than those in the statute. If the Board delegates the power to **order** an exam they will be **expanding**

the law rather than making it “more specific.” If the Board wants someone else to be allowed to order the psychiatric or physical exam, they should seek to amend the law to accomplish their purpose. In fact, if this is a good and proper idea, there is no reason why the law should not be amended to make clear to all boards that a delegation of this substantial power to one person, not a member of the Board, is appropriate. While we have not completed any analysis of what other boards have done, we are not aware that any boards have moved in this direction.

CONCLUSION

Our view is that this proposed regulation is not good policy, and that it is anti-due process and dangerous. Giving this awesome power to one individual – not even a Board member – is unwise and scary. Let there be a public policy debate within the Legislature involving all Boards and professions if this idea is to move forward.

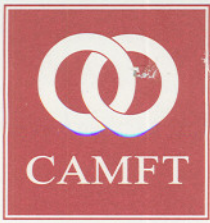
Sincerely,

Mary Riemersma
Executive Director

Richard S. Leslie, Attorney
Consultant to CAMFT

Attachment F

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We're here for *You!*

May 11, 2006

Paul Riches, Executive Officer and
Members of the Board of Behavioral Sciences
1625 North Market Boulevard, Suite S200
Sacramento, CA 95834

CAMFT is

dedicated to the

advancement and

understanding of

the profession of

marriage and

family therapy as

both an art

and a science, to

maintaining high

standards of

professional

ethics and

qualifications,

and to expanding

the recognition

and utilization of

the profession.

Re: Proposed Amendment to Section 1803 in Title 16 of the CCR

Dear Members of the Board:

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CONSISTENCY

Under the section of the Ritter memorandum entitled "Consistency" (pages one and two), it is acknowledged, as CAMFT points out in its letter to the Board dated February 14, 2006, that the Legislature expressly authorized the licensing agency (in this case, the Board of Behavioral Sciences) to conduct both functions – that is, to **order** a psychiatric exam and take subsequent disciplinary action if warranted by the facts and circumstances. The Legislature did not expressly authorize the Executive Officer to conduct either function nor did it expressly provide for a delegation of the power to others. In fact, the legislative intent appears otherwise.

With regard to physicians and surgeons, for instance, the Legislature specifically says (in Section 825 of the Business and Professions Code) that the term "licensing agency" means a panel of the Division of Medical Quality. A thorough reading of all of the sections related to this subject strongly suggests that the intent of the Legislature was that the licensing agency – the Board- perform these functions. The memorandum then cites Section 11500 of the Government Code as support for its position that the power to order a psychiatric exam can be delegated to the Executive Officer. That section of the law does not support a delegation.

California Association
of Marriage and
Family Therapists

First, the definitions contained in 11500(a) are, according to that section, for purposes of that chapter, which applies specifically to the filing of the Accusation, the notice of defense, discovery, and the administrative hearing and decision. That chapter and the

7901 Raytheon Road
San Diego, CA 92111
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F: (858) 292-2666
www.camft.org

laws contained therein, like 11500(a), have no application to an order for a psychiatric exam under section 820 of the Business and Professions Code. Additionally, the definitions of “agency” and “agency” itself in Section 11500(a) have no direct relevance to the meaning of the term “licensing agency,” as used in Section 820. The term “licensing agency” is not even addressed in Section 11500(a). **Finally, and most importantly, Section 826 of the Business and Professions Code makes clear that the definitions contained in Section 11500 of the Government Code apply to proceedings under 821 and 822 – not to orders under Section 820 of the Business and Professions Code!**

NECESSITY

Under the section of the Ritter memorandum entitled “necessity” (page 3), it is suggested that “CAMFT can hardly take the position” that the Board should permit violations of due process to continue if it is now determined that due process is compromised by the fact that the same *individuals* are involved with the functions under Section 820 and 822 of the Business and Professions Code. To the contrary – we take the position that for the last two decades, when the Board was doing exactly what the Legislature intended and authorized in Sections 820 and 822, there was no due process problem.

The suggestion that there is a high probability that a licensee’s due process rights will be violated because the *individuals* involved in both functions are the same (all eleven Board members, for example), is rather curious and troubling. **The threat to a licensee’s due process is apparent in delegating the power to order a psychiatric exam from the Board (where a showing has to be made to a regulatory body) and giving it to one individual who can decide, without scrutiny, to issue an order of such magnitude.**

Additionally, it is illogical and directly in conflict with the law to suggest that if the same individuals are involved (Board members) in ordering an exam (Section 820) and in ultimately revoking the license (Section 822), there is any due process problem. **The Legislature expressly states in a separate statute that the licensing agency may proceed against a licensee under either section 820, or 822, or both! Did the Legislature not realize that the same individuals would be involved in both functions because the licensing agency is made up of individual board members?**

Further, it is our position that the attorneys for the Department of Consumer Affairs Legal Office properly advised the BBS and the other boards within the Department of Consumer Affairs for the past twenty years when they allowed the Board to order a

psychiatric exam and then to take disciplinary action, when appropriate. **If it is in fact a violation of due process for the Board to perform both functions, as asserted in the Board's Initial Statement of Reasons for this proposed regulation, then all Boards should forthwith act to amend the law. Let the Department of Consumer Affairs rush to the Legislature and bring to its attention such a view of due process violations over the past twenty years and their desire to rectify the situation.**

AUTHORITY

Under the section of the Ritter memorandum entitled "authority" (pages three through seven), it is interesting to note the reference on page six to the case of *Schechter v County of Los Angeles*, wherein it is stated: "... there is no authority to delegate acts discretionary or quasi-judicial in nature." **Ordering** a psychiatric exam, we strongly suggest, is both a discretionary act and it is quasi-judicial in nature. It is not a mere administrative or ministerial act, which may be delegated as per the *Schechter* case. Mr. Ritter's memorandum, however, attempts to trivialize the Board's power to order an exam.

The memorandum, for instance, describes the investigation of a licensee's mental condition as "only a preliminary step" (first paragraph on page seven). Further, he asserts that "no action is taken by the Board" under Section 820. Yet, the action that the Board takes under Section 820 is to issue an order for a psychiatric exam by one or more physicians and surgeons or psychologists designated by the agency. This may only be done if it appears that a licensee is not only mentally or physically impaired, but that such impairment may affect the licensee's ability to practice his or her profession safely. Further, the report of the examiners can be used as direct evidence in license revocation proceedings. This is not a mere administrative or ministerial act!

SCOPE OF DELEGATION

Under the section of the Ritter memorandum entitled "scope of delegation" (page seven), it is stated that the board can make the terms of its regulations more specific than those in the statute. If the Board delegates the power to **order** an exam they will be expanding the law rather than making it "more specific." If the Board wants someone else to be allowed to order the exam, they should seek to amend the law to accomplish their purpose. In fact, if this is a good and proper idea, there is no reason why the law should not be amended to make clear to all boards that a delegation of this substantial power to one person, not a member of the Board, is appropriate. While we have not completed any

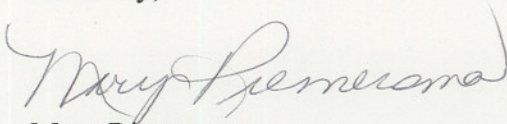
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May 11, 2006

analysis of what other boards have done, we are not aware that any boards have moved in this direction.

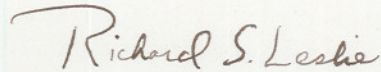
CONCLUSION

Our view is that this proposed regulation is not good policy, and that it is anti-due process and dangerous. Giving this awesome power to one individual – not even a Board member – is unwise and scary. Let there be a public policy debate within the Legislature involving all Boards and professions if this idea is to move forward.. Respectfully, we cannot sit by and allow this dangerous proposal – that eviscerates due process- to become effective. If the Board moves forward with this proposal and if it survives the scrutiny of OAL, we will have no alternative but to seek legislation to prohibit such a delegation.

Sincerely,



Mary Riemersma
Executive Director



Richard S. Leslie, Attorney
Consultant to CAMFT

Attachment G

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July 3, 2006

Board of Behavioral Sciences
1625 N. Market Blvd., Suite S-200
Sacramento, CA 95834

Re: Proposed Amendment to Section 1803, Title 16 of the CCR
Hearing Date – July 27, 2006

Dear Members of the Board:

This proposal is unwise and unnecessary for the reasons indicated in our two prior letters (February 14 and May 15, 2006) and in this letter. The proposal removes an important power from the Board and puts it into the hands of one individual. It impermissibly removes the “checks and balances” (due process) provided for by the Legislature, and does so for no valid reason, as described below.

The Applicable Law Regarding Ordering Physical or Mental Exams

We first address the spirit and intent, and the actual content, of Business and Professions Code Sections 820 through 828, which, among other things, allows **licensing agencies to order** a licentiate to be examined by one or more physicians and surgeons or psychologists (designated by the agency) whenever it appears that the licentiate may be unable to practice safely because his or her ability to practice is impaired due to mental illness, or physical illness affecting competency.

We were concerned when we discovered, after the regulatory hearing on May 18, 2006, that while the Board was provided with materials that seemingly included Sections 820 through 828 of the Business and Professions Code, Section 825 of the Code was not included. Additionally, there was no indication on the materials that one or more sections were omitted. This omission is important because when one reads all of the relevant sections, it becomes evident that the Legislature contemplated that **the Board itself** would issue an examination order after being presented with evidence that such an order was warranted.

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To that effect, Section 828 begins with the following phrase: "If the licensing agency determines, *pursuant to proceedings conducted under section 820*, that there is insufficient evidence to bring an action against the licentiate pursuant to Section 822, *then all licensing agency records of the proceedings....*" The proceedings being referred to are the proceedings contemplated by the Legislature—that the Executive Officer and others involved in the investigation of the matter would present evidence to the Board so that the Board could determine (a quasi-judicial function) whether or not to issue an order.

Section 825, which was disturbingly omitted from the materials, provides an exception to the general rule that the Board would issue the order for an examination. This section provides that the term "licensing agency," with respect to physicians and surgeons, means a panel of the Division of Medical Quality (rather than the Board itself). The clear implication is that with respect to other professions, the term "licensing agency" means the Board, not the Executive Officer or a panel. If the Legislature had intended Executive Officers to have the power to issue examination orders, the law would read differently. *Why doesn't the Board simply seek to amend the law to allow its Executive Officer to issue such orders if it believes that this is good public policy and consistent with due process and fundamental fairness?*

Specific Purpose for Proposed Regulation Based Upon Misunderstanding the Law

In its Initial Statement of Reasons, the Board asserts the specific purpose for the proposed amendment. First, it describes the regulation as allowing the Executive Officer to "sign orders" to compel an examination, as if this is a ministerial act—the mere signing of the order. Instead, the actual power sought is the power to decide whether or not to issue an order.

It is then stated that "it was determined that issuing the order is an investigatory function and should not be performed by Board members who also serve as judges in the administrative adjudication process." *This determination is clearly contrary to the plain language of Section 824 of the Business and Professions Code*, which states that the licensing agency may proceed against a licentiate under Section 820, or 822, or under both sections. Could the law be any clearer? *Could the Board's power to both issue the order and later take disciplinary action based upon the results of the examination be spelled out any better?*

Section 826 of the Business and Professions Code makes clear that the licensing agency has all of the rights and powers granted in Chapter 5 (commencing with Section 11500 – Administrative Adjudication: Formal Hearings) of Part 1 of Division 3 of Title 2 of the Government Code. Those rights and powers, and the definitions (e.g., “Board itself”) contained in Section 11500 ***are not applicable to proceedings conducted under Section 820.*** If those rights and powers (including the right or power to delegate) were applicable or intended to be applicable, Section 826 would not be expressly limited to the proceedings under Sections 821 and 822.

The Legislature intended that the Board—not the Executive Officer - would order the licensee to be examined. This order for examination would be based upon the presentation by the Executive Officer of sufficient evidence that the licensee may be unable to practice safely because his or her ability to practice is impaired due to mental illness, or physical illness affecting competency. Such a determination should not be made by an Executive Officer alone, with no “checks and balances.” ***If the Board is truly concerned about due process, surely it must see that due process is best served when the Board hears or reviews evidence that supports the issuance of such an order. Giving this discretionary and quasi-judicial function to the unchecked judgment of one individual – the one who is seeking an order – is not due process. It is the denial or removal of due process!***

Factual Basis/Necessity for Proposed Regulation is Inadequate and Questionable

The Initial Statement of Reasons simply asserts that the proposal is necessary in order to provide the Board’s executive officer with the authority ***to sign orders*** because the executive officer does not now have that authority. The Executive Officer doesn’t have that authority because the intent of the Legislature was that the power to ***issue an order*** was given to the Board—and in the case of physicians and surgeons, to a panel. So, the assertion in the Initial Statement of Reasons is that since the Executive Officer doesn’t have the power now, this regulatory proposal would acquire that power for the Executive Officer. However, a delegation of the power from the Board to the Executive Officer to issue an order under Section 820 of the Business and Professions Code appears impermissible.

It appears that there is an effort to convince the public (and OAL) that a delegation of authority to the Executive Officer would be for performance of a mere ministerial act—that is, a mere signing of the order. Additionally, the Initial Statement of Reasons indicates that, in the past, the Board had the order signed by the Board Chair. This past

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practice seems questionable, since it again appears that there is a mere "signing," rather than a proceeding, where some showing is made to the Board to justify issuance of the order. ***The Board cannot delegate acts that are discretionary or quasi-judicial in nature.***

It was also mentioned at public meetings that because the person who signed the order (the Chair) had to recuse himself/herself, it was sometimes difficult for the Board to achieve a quorum. Such an explanation seems insufficient. Even if a recusal was necessary, the Board would need six out of ten remaining members to achieve a quorum (assuming a full Board). Since these proceedings would typically be held at the same time as the Board considered disciplinary matters, it is unlikely that achieving a quorum would be endangered, unless Board members were regularly failing to attend meetings. Furthermore, as everyone seems to agree, there are few of these matters over the course of a year – perhaps one or two per year, if that.

Again, why not approach the Legislature and seek the power for the Executive Officer to order an examination if there are such compelling and appropriate reasons to do so? ***Why not seek clarification on the issue of whether or not the full Board could properly, under existing law, issue the order for an examination and subsequently take disciplinary action, if warranted, without any need for recusal?*** We believe that the law is clear on this point and there are ways, should the will be there, to clarify this essential point.

We urge the Board to reconsider its position on this important issue. It is not too late to do the right thing.

Sincerely,

A handwritten signature in cursive script, reading "Mary Riemersma".

Mary Riemersma
Executive Director